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STATE LEGISLATURE, MADRAS

THE MADRAS LEGISLATIVE COUNCIL

Thursday, the 7th April 1955.

The House met in the Council Chamber, Fort St. George, at ten of the clock, Deputy Chairman (SRI A. M. ALLAPICHAI) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Admission of in-patients in the Government Hospital of Indigenous Medicine.

* 288 *Q.*—SRIMATHI JOTHI VENCATACHELLUM : Will the Hon. the Minister for Health be pleased to state—

(*a*) the number of in-patients admitted in the Government Hospital of Indigenous Medicine from the time the New Hospital Block was opened till now in the different sections; and

(*b*) the number of doctors, nurses, maternity assistants and sanitary workers working in the hospital?

THE HON. SRI A. B. SHETTY :—" (*a*) 4,190.

" (*b*) 25 doctors, 23 nurses, 4 maternity assistants, 21 nursing orderlies and 23 sanitary workers are working in the Hospital."

SRI ALEXANDER GNANAMUTTU :—" May I know whether purely indigenous medicines are administered to the patients coming to the hospital or whether allopathic treatment is also given? "

THE HON. SRI A. B. SHETTY :—" Both indigenous and modern medicines are administered to the patients, Sir."

SRI V. V. RAMASWAMI :—" May I know whether any retrenchment was recently effected in that hospital? "

THE HON. SRI A. B. SHETTY :—" Yes, Sir. Some retrenchment has been made because the L.I.M. course has been abolished."

SRI V. CHAKKARAI CHETTY :—" I think the Hon. Minister is a doctor trained in Western Medicine and he must know something about it. This College of Indigenous Medicine is serving a useful purpose to the people and they like it, and they are patronising it. The other day there was something wrong with my grandchild. I took the child there and the child was attended to within five minutes. Therefore I thought this school was serving a very useful purpose."

THE HON. SRI A. B. SHETTY :—" I may tell the hon. Member that I am not a medical man."

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SRI G. KRISHNAMOORTHI :—" May I know, Sir, why the L.I.M. course was abolished? "

THE HON. SRI A. B. SHETTY :—" Sir, it was abolished with a view to have a uniform standard of medical education."

Number of Lino machines in the Government Press, Madras.

* 289 Q.—SRI T. PURUSHOTHAM : Will the Hon. the Minister for Public Works be pleased to state—

(*a*) the total number of Lino machines in the Government Press, Madras;

(*b*) the strength of mechanics working in the Lino department for each shift;

(*c*) the number of Lino machines that are not working and the reasons therefor;

(*d*) the amount spent towards the local purchase of Lino spares and matrices from 1st January to 1st October 1954; and

(*e*) whether Lino spares, etc., were received from the United Kingdom recently and if so, the year in which the indent was made for the same?

THE HON. SRI R. SHANMUGA RAJESWARA SETHUPATHI :—" (*a*) *to* (*e*) A statement [a] is placed on the table of the House."

SRI T. PURUSHOTHAM :—" Could not an arrangement be made to have the Lino machines repaired by experienced men locally and would Government take steps to see that the machines are put into operation by carrying out the repairs locally? "

THE HON. SRI R. SHANMUGA RAJESWARA SETHUPATHI :—" I do not know whether they could be repaired locally. I shall ascertain that fact and see if the machines could be repaired and commissioned for work."

SRI T. PURUSHOTHAM :—" May I respectfully draw the attention of the Hon. Minister to this fact that in the answer placed on the table it is stated that two Head mechanics are in charge of the Lino department, whereas in a similar statement placed on the table of the House some time back it was stated that there was only one mechanic for the Lino department. The Budget shows no provision at all for a mechanic in that department. May I request the Hon. Minister to examine this discrepancy and rectify it and see that proper mechanics are provided for the department to keep the machines in working order? "

THE HON. SRI R. SHANMUGA RAJESWARA SETHUPATHI :—" Yes, Sir. I shall certainly have it looked into. There might have been some discrepancy somewhere. I shall ask the department to explain this and I am sure there will be sufficient provision made for the necessary number of mechanics."

[a] Printed as Appendix I on page 979 *infra*.

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Extension of the supply of electricity to Porto Novo, Chidambaram taluk.

* 290 *Q.*—Sri M. ETHIRAJULU : Will the Hon. the Minister for Public Works be pleased to state—

(*a*) whether the Government have recently received any representation from the residents of Porto Novo, Chidambaram taluk, regarding extension of the supply of electricity to that town ; and

(*b*) whether any and if so, what action was taken thereon and if not, whether that proposal will be included in the Second Five-Year Plan.

The Hon. Sri R. SHANMUGA RAJESWARA SETHUPATHI :—" (*a*) Representations were received from the Porto Novo Panchayat in August 1951 and from the President of the Maber Chamber of Agriculture, Muhammad Bunder in September 1951 and October 1953.

" (*b*) The petitioners were informed in January 1952 and January 1954 that under the conditions then existing, it was not feasible for the time being to extend supply of electricity to Porto Novo.

As Porto Novo lies in the jurisdiction of the South Arcot Electricity Distribution Company, Limited, the question of evolving any proposal for extension of supply to the place for inclusion in the State's Second Five-Year Plan does not arise.

The licensee has since represented that due to lack of funds he cannot take up the extension but if the Government would lay the main H.T. line up to Porto Novo, on revenue guarantee basis, it might be possible for him to give supply to the town. The request made by the licensee is under eonsideration of the Electricity Department."

Sri M. ETHIRAJULU :—" கனம் அமைச்சர் அவர்களுடைய பதிலிலிருந்து அது தென் ஆற்காடு ஜில்லா மின்சாரம் கம்பெனியைச் சார்ந்தது என்று தெரிகிறது. ஆனால் அந்தக் கம்பெனியாருக்கு போதுமான பண்ட் இல்லாததால் இதைச் செய்யமுடியாது என்று சொல்லிவிட்டார்கள். அதனால் இந்தப் பரங்கிப்பேட்டையில் இருக்கக்கூடிய 15 ஆயிரம் ஜனங்களுடைய சௌகரியத்தை முன்னிட்டு சர்க்காராவது மின்சாரத்தைக் கொண்டு வருவதற்கு முயற்சிப்பார்களா ? "

The Hon. Sri R. SHANMUGA RAJESWARA SETHUPATHI :—" அது லைசென்ஸ் ஏரியவாக இருக்கின்றபடியால், சர்க்கார் அமுலுக்கு கொண்டுவர முடியாது. அவர்களுக்கு லோன் வேண்டுமானால், கொடுத்து அதை எப்படிச் செய்வது என்பதை யோசிக்கலாம்."

Sri M. ETHIRAJULU :—" சர்க்கார் மெயின் லைனை எடுத்துக்கொண்டால், அதைகொண்டு அங்குள்ள வீடுகளுக்கு மின்சார வசதி செய்து கொடுக்க முடியுமென்று அந்தக் கம்பெனியார் சொல்லுகிறார்கள். அப்படியானால் மெயின் லையினை இழுத்துக் கொடுப்பதற்கு சர்க்கார் முயற்சிக்குமா என்று கேட்கிறேன்."

The Hon. Sri R. SHANMUGA RAJESWARA SETHUPAEHI :—" அதுதான் இப்போது சர்க்காருடைய ஆலோசனையில் இருந்து கொண்டிருக்கிறது,"

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Sri T. PURUSHOTHAM :—" May I know whether the Government generally give loans to licensees for carrying out needed extensions to rural areas? "

The Hon. Sri R. SHANMUGA RAJESWARA SETHUPATHI :—" Yes, that has been the policy, Sir."

Sri V. V. RAMASWAMI :—" இந்த விஷயம் இரண்டு, மூன்று ஆண்டுகளாகப் பரிசீலனையில் இருந்துகொண்டு வருவதாகத் தெரிகிறது. அப்படியானால் இதை எவ்வளவு நாளைக்குள் செய்து கொடுக்க முடியும் ? "

The Hon. Sri R. SHANMUGA RAJESWARA SETHUPATHI :—" இல்லை, இப்போதுதான் அந்த லைசென்ஸிங் அதாரிடியால் இது சர்க்காருடைய கவனத்திற்கு கொண்டு வரப்பட்டிருக்கிறது. இப்போது அவர்கள் சொன்னதன் மேல்தான் பரிசீலனை செய்யப்பட்டு வருகிறது."

Sri M. ETHIRAJULU :—" சென்ற வாரத்தில் அந்தத் தொகுதி எம். எல். ஏக்களாலும், அங்குள்ள பொது ஜனங்களாலும் இதைப் பற்றி சர்க்காரை வற்புறுத்தி இருப்பதாகத் தெரிகிறது. அது உண்மையா ? அப்படியானால் சர்க்கார் அதற்கு என்ன பதில் கொடுத்திருக்கிறார்கள் என்பதைச் சொல்ல முடியுமா ? "

The Hon. Sri R. SHANMUGA RAJESWARA SETHUPATHI :—" என்னிடம் ஒருவரும் வந்து சொல்லவில்லை."

UNSTARRED QUESTION.

Number of accidents by buses, lorries and cars reported in the South Arcot district.

28 *Q.*—Sri M. ETHIRAJULU : Will the Hon. the Minister for Religious Endowments and Transport be pleased—

(*a*) to lay on the table of the House a statement showing the number of accidents by buses, lorries and cars reported during the years 1950–51, 1951–52, 1952–53 and 1953–54 in the South Arcot district; and

(*b*) to state the amount of compensation, if any, paid to the families of the victims in these accidents?

A.—(*a*) A statement showing the particulars is annexed.

(*b*) Information regarding the compensation paid to the families of the victims in the accidents is not readily available.

Annexure.

Statement showing the number of accidents by buses, lorries and cars during the years 1950 *and* 1954 *in the South Arcot district.*

Year.	Kind of vehicles causing accident.		
	Bus.	Lorry.	Car.
(1)	(2)	(3)	(4)
1950–51	**21**	**38**	**31**
1951–52	**15**	**32**	**17**
1952–53	**6**	**27**	**4**
1953–54	**19**	**33**	**19**

[*Note.*—**An asterisk (*) at the commencement of a speech indicates revision by the Member.**]

II.—GOVERNMENT BILLS.

(1) THE MADRAS CINEMAS (REGULATION) BILL, 1954 (L.A. BILL NO. 52 OF 1954).

THE HON. SRI C. SUBRAMANIAM :—" Sir, a request has been made to me that the Court Fees Bill may be taken up first and the others afterwards. As far as I am concerned I have no objection to comply with the request. But perhaps we may finish the small Bills first and take up the Court Fees Bill last."

HON. MEMBERS :—" Yes."

THE HON. SRI C. SUBRAMANIAM :—" Mr. Deputy Chairman, Sir, I move—

> ' *That the Madras Cinemas (Regulation) Bill* [a], 1954 (*L.A. Bill* No. 52 *of* 1954), *as passed by the Assembly, be taken into consideration.*'

Sir, hon. Members are aware that after the passing of the Constitution, the censorship of films is within the jurisdiction of the Union Government and the exhibition of films is within the jurisdiction of the State Government. But with reference to these aspects we were so far governed by the Central Act. Now as far as the Centre is concerned, they have passed a separate Act for matters connected with them but we still continue to have the Central Act, that is, for the purpose of exhibition of films and all other connected matters. Because of the recent decision of the Supreme Court, it became necessary to amend the existing Act. Taking advantage of that we are bringing in this new measure and the legislature is exclusively competent to deal with the subject. This Bill was considered by the Select Committee of the Legislative Assembly. I am happy to say they have made some very good changes and in the right direction. With these changes the Bill was passed by the Legislative Assembly. It has now come before this House for its approval. The main changes made now are in respect of grant of licences to exhibitors for the running of theatres. Formerly the entire discretion vested in the licensing authority. No guiding principle was laid down for the grant or refusal of a licence, except for the fact that he should not grant a licence unless certain conditions were satisfied. Even if those conditions were satisfied, whether to grant a licence or not was entirely within the discretion of that officer. Of course, Government was the appellate authority against such orders. Now we have laid down broad principles which will have to be taken into consideration by the licensing authority in granting or refusing a licence. In all these matters we cannot go into details. Therefore only broad principles have been laid down and further details will be laid down in the rules.

" Various representations have been made to the Government that there is a great deal of difficulty in getting a licence, that there is a duplication of authorities and that a person has to go **10-10 a.m.**

a Printed as Appendix II on pages 980–984 infra.

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before four or five authorities before getting a licence for running a theatre. The Government propose to look into all these things and lay down in the rules a simplified procedure. It was particularly brought to our notice that formerly anti-fire precautions were being taken because the films were combustible and now the material out of which the films were produced had changed and that the films were non-combustible and the same amount of safety measures were not necessary. All these things will be taken into consideration when we lay down rules. The Government also have agreed to consult the interests concerned before finalizing the rules.

"Then, with reference to appellate powers, the Government thought that it was not necessary for them to have those powers and that they should be vested in another appellate authority to dispose of appeals against the orders of the licensing authority. The Government as such need not be in the picture.

"Sir, the most controversial portion of the Bill which necessitated the Government to review the position and bring in this Bill, is with reference to the exhibition of what is called 'approved films.' Hon. Members are aware that only story films are being shown in all the theatres and naturally they attracted a great crowd. The Government are of the view that since most of the people attend cinemas and cinemas are very popular, that opportunity should be availed of for the purpose of educating the public. After all, we take so many measures for spreading adult education and other kinds of visual education. But here is an opportunity and an occasion wherein lakhs gather everyday in a large number of theatres and that occasion should be availed of to see that certain educative films, otherwise called approved films, are shown. Unfortunately there is no production in the private sector as far as educative films are concerned. It is being exclusively done by the Films Division of the Government of India but it is our hope that the private industry also will help and they will also be able to produce these documentary and other educative films. Sir, the Films Division deals, in a large way, with every matter relating to the entire country and so much so, there is no regional emphasis as far as those documentary films are concerned. Unless the private industry comes into the picture and produces documentary and other educative films with emphasis on regional events and regional subjects, it may not be possible to have a large number of films which would be interesting enough and educative enough for the large masses living in our State and in the southern region. I am hoping that the private film industry would come into the picture. Apart from that, we have made representations to the Government of India that a little more emphasis should be laid on events and subjects in South India particularly in the Madras State and the Government of India have proposed to look into the matter and they may extend the activities of the Films Division in the Madras State. These are the main features of the Bill and I hope it will have the approval of this House."

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DEPUTY CHAIRMAN :—" Motion moved—

'That the Madras Cinemas (Regulation) Bill, 1954 (L.A. Bill No. 52 of 1954), as passed by the Assembly, be taken into consideration.' "

* SRI V. GURUNANDAN ROW :—" Mr. Deputy Chairman, Sir, I rise to oppose this Bill not because I am in any way opposed to the regulation of cinema theatres but because the Bill, as drafted, seems to offend against the freedom of exhibiting films altogether. Clause 3 of this Bill says—

'. . . . no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act'

If that is read, it would mean that if I want to show a film in my own house, I must have my house licensed. Such a restriction, I say, is not in consonance with the Constitution as it encroaches upon the right of freedom of speech and expression. The exhibition of a cinema comes under the right of freedom of expression. No one objects to the Government coming in and placing restrictions on the cinema houses which are run as a business so that such houses will take safety precautions against fire and provide proper ventilation and other facilities. No reasonable man can say that such restrictions should not be there. In fact those restrictions are perfectly all right. But here clause 3 specifically says that if I am in possession of a film and want to show it in my house, I must take out a licence. It is not quite clear to me whether I can take out a licence for a place which does not belong to me or I can show the film only in a theatre which has been given a licence. If the film is to be shown only in a theatre, then the film distributors will have to be completely in the hands of theatre owners unless they themselves have their own theatres. It means that they cannot show it anywhere else, but can show it only in a place which is licensed. How can I take out a licence in respect of a place which I do not own? Suppose I want to exhibit it in one show or in a particular day. Does it mean that I have to get a licence for that particular day? Clause 3 is not quite clear and I think that it applies to all sorts of films including 16 mm. films. Sir, I also have a doubt that this matter comes within the competence of the Parliament and not the State Legislature because mention has been made in item 60 of the Central Legislation List about the sanctioning of a cinematograph film for exhibition. That means sanction for exhibition and it does not merely mean censorship only. Parliament has passed an Act providing for sanction to exhibit a film. So, I say that the State Legislature is not competent to pass a legislation which prevents a person from showing a film to a private audience in any place. I submit that such a legislation will be definitely contrary to the 10-20 a.m.
Constitution. Then, Sir, I would invite the attention of the Hon. Minister to the broad principles laid down for the purpose of guiding the licensing authority to grant or not to grant a licence. It is strange that the Government should say that the status and

the previous experience of the applicant have to be taken into consideration. What is the meaning of 'status and previous experience of the applicant' in the case of exhibition of a film for one or two days or just for a week or in the case of a touring cinema going from one place to another? In what ways are the status and previous experience of the applicant necessary, I cannot understand. This will mean that because a person has no previous experience, he should not be granted a licence. Another person, who is already there, will have the monopoly of it.

"Then, the other broad principle laid down in clause 5 which the licensing authority should take into consideration is 'the adequacy of existing places for the exhibition of cinematograph films in the locality'. In whose interest has this clause been laid down? Does it mean that the existing cinema theatres are adequate and that there should be no more cinema theatres? Is it the Government's intention that there should be one theatre for a particular number of people residing in a locality? If so, let it be made clear. What is the meaning of 'adequacy of existing places for the exhibition of cinematograph films in the locality'? Who is to decide about the adequacy of the cinema theatres or otherwise? Is not the establishment of extra cinema houses good for the people, if it is considered as an entertainment or as having some educational value? Why should there be any restriction as to the number of licences to be granted in a particular locality?

"Then the most important condition laid down is the possession by the applicant of other places, if any, licensed under the Act. I cannot understand what this has to do with public interest. Why should you restrict a man from taking out a further licence? If he has got another place, why should he not be granted licence to a new place?

"Actually the principles laid down here have been taken from the Road Traffic Code. I think more or less the same conditions are there in section 45. This is not a case where even the Government say that only a certain number of cinemas can exist whereas in the grant of bus permits it is not like that. When a route is open and when the Government have to issue a new licence, they have to choose between X, Y and Z. Anybody can apply for that route and there the status and previous experience of the applicant will have to be taken into consideration because it is a service which is absolutely essential for the transport of passengers. Something on the lines of the Road Traffic Code has been put into this Bill.

"Another most objectionable feature is that laid down in sub-clause (4) of clause 5 which says: 'The Government may issue such orders and directions of a general character as they may consider necessary, in respect of any matter relating to licences for the exhibition of cinematograph films to licensing authorities; and

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every licensing authority shall give effect to such orders and directions.' Such a condition existed in the Road Traffic Code also and that was replaced after a lot of litigation. For example, in the case of bus permits the Government used to give a direction one day that monopoly should be supported. On another day, by issuing another order, they will say that new comers should be encouraged. There were a lot of complaints and later on some power of revision was vested in the Government. We find the same objectionable feature here also. For all these reasons, I oppose this Bill."

* SRI G. KRISHNAMOORTHI :—" Mr. Deputy Chairman, Sir, I wholeheartedly welcome this Bill. In fact, I expected the Government to bring in a more rigorous Bill. Cinemas are powerful media of education which create the visual appeal, the everlasting and indelible appeal in the minds of men. When such has been the case, somehow or other, we have been allowing all these days all sorts of films to be exhibited and witnessed by the public. Then we found that there should be some censorship and now we have got censorship. The State Government have got powers only to regulate the cinemas and they have now come forward with this Bill to regulate the cinemas.

" But I am very sorry that they have not come forward to regulate the advertisements with regard to these cinemas. The visual appeal creates a very strong impression and hence it is the duty of the Government to see that proper pictures are shown to the public to give that indelible and everlasting appeal. After all, education is a very comprehensive subject, and all that goes to appeal to the mind of a person through the sense of sight comes under education. If Government really do not want to waste the sum of Rs. 11 crores that they are spending on education, it is their duty to see that proper pictures are exhibited. The Government must especially see that nothing that poisons the juvenile minds in their plastic stage should enter in the pictures. Now, there are parents who advise their children not to go to the cinemas. There are teachers who advise their children not to go to the cinemas and there are children who have made up their minds not to go to the cinemas, but in spite of that steadfast vow their eyes are attracted to the posters pasted on the walls in the main road especially in big cities like Madras. Nowadays we are not able to see brick and mortar on the walls, not even the cement plaster but we are able to see only paper. What paper? It is coloured paper. What is it full of? Pictures which poison the juvenile mind, pictures that put anti-social ideas into the plastic minds. Is it not the duty of the Government to come forward and bring an amendment to this Bill, even after it is passed, to see that these advertisements do not appear on the walls? By all means, if the films have been censored, let the advertisements appear in front of the cinema theatres, but not on all the walls on the road, anywhere and

everywhere. So, I would earnestly request the Govermnent to see that an additional clause is inserted in this Bill to see that such advertisements are regulated so that advertisements which are likely to poison young minds and impart wrong ideas and which are likely to create anti-social elements in society are not exhibited anywhere and everywhere and on any wall and every wall. Sir, the pictures exhibited in the cinema houses are, of course, censored. But that does not mean that we cannot improve censor-
10-30 a.m. ship or that we cannot suggest ideas to the Central Government to make the censorship still more strict. In spite of the character that we put into the children in our schools, all the good ideas are taken away and nullified by one bad poster on the wall. Now, if the Government really think that it is their duty to put character into the boys, if they think that character is a bundle of habits, and if they admit that a habit is formed by association—association through not only friendship but also through pictures—they will recognise the psychological factor that the sense of sight is the most indelible appeal and they must come forward to see that bad ideas are not put into the minds of pupils either through posters or through films or pictures. I am glad that the Government, through this legislation, have come forward to see that one-fifth of the time for each show is reserved for exhibiting films having a scientific or educative value. I am glad that they are trying to show educational, cultural, scientific and informative films at least for one-fifth of the time of each show. I would have welcomed a larger share of time allotted for exhibition of films having a scientific or educative value. Of course, objection to exhibition of such films has been taken by cinema proprietors. The Government have rightly pointed out that ultimately it is the tax-payer who is paying the money for seeing such films. It is the duty of the Government to see that nothing but purely educational, scientific and religious pictures are exhibited. With these remarks, I wholeheartedly support the Bill and I expect a still more rigorous Bill to be brought forward by the Government later on."

SRI V. CHAKKARAI CHETTY :—" Mr. Deputy Chairman, Sir, I just want to say a few words on this Bill. I do not want to enlarge upon the arguments based upon the various articles contained in the Constitution whether such a Bill as this does not offend the principles of the Constitution dealing with the freedom of the individual and with the freedom of expression. It is all right for the Government to come forward and say that they want this Bill to be passed for the regulation of exhibitions by means of cinematographs in the State. They want to regulate everything and 'regulation' is the principal idea of some of our State Governments and the Central Government. The only things they cannot regulate are births and deaths. They cannot regulate how many people should be born or how many people should die. (An hon. Member: 'Family planning.') Of course family planning is a novel thing. I do not know whether it will have any

effect upon the population question. That question really depends upon the goodwill and character of the individuals composing the State. It is all right for the Government to come forward and say that they are going to regulate the exhibition of certain pictures by constituting authorities to go into the matter of issuing licences. It may be possible for the Government to eliminate certain bad films. But that is not what is required. What is required is that good films should be produced. Good films cannot be produced by mere elimination of bad pictures. It is the duty of the Government to ask people to produce good pictures. But, this subject has not been brought forward in this Bill. Production of good pictures depends upon the general educational status of the people. I, therefore, ask the Government whether they have devoted any attention to the positive aspect of producing good films. But, there is no provision in this Bill to carry out this object. I also join my hon. Friend Sri V. Gurunandan Row in voicing the objection that there should be no undue restriction placed on the freedom of the individual. I should certainly think of supporting this Bill provided it is free from the objections that have been pointed out by my hon. Friend Sri V. Gurunandan Row and provided that the Government take upon themselves the responsibility of producing good films. If film producers are not able to produce good films, it is the duty of the Government to institute some proper machinery for producing good films. It is possible for the Government to do so. They are producing good documentary films and I do not see any reason why they should not produce good films by setting up certain institutions where experts can be employed for producing good films. With these words, I half-heartedly support this Bill although I do not believe that as a result of passing this measure good films are going to be produced."

SRI MOHAMED RAZA KHAN :—" Mr. Deputy Chairman, Sir, I support the principles of this Bill. I wish to point out, as usual, that it would have been better if this Bill had been referred to a Joint Select Committee of both the Houses, because this is not a Money Bill.

" I wish to say a few words with regard to clause 5 of the Bill. Item (*b*) of sub-clause (1) says: ' the status and previous experience of the applicant.' I understand that only persons who have enough capital can venture to put up a cinema house. It ordinarily requires an expenditure of two to three lakhs of rupees for putting up a cinema house. A person without any financial backing will not be foolhardy enough to venture upon opening a cinema house. After all the Government themselves will be very anxious to have as many cinema houses as possible because they will be getting additional revenue by way of entertainment tax if a number of cinema houses are opened newly. As per the provision made in item (*b*) of sub-clause (1), only those who are owning cinema houses already or who are proprietors of touring cinemas are

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entitled to take out licences and not new comers. I do not know for what purpose this item has been put in. I hope the Hon. the Minister for Education will clarify this point in the course of his reply.

"Then, Sir, item (c) of sub-clause (1) says: 'the suitability of the place where the cinematograph exhibitions are proposed to be given.' I feel, Sir, that the Government should have this right. It is quite possible that the place selected for opening a cinema house may be very crowded and the people living near that place may take objection to the location of the cinema house near dwelling houses. It may not be possible for the Government to amend this provision in the Bill now to make it clear that cinema houses should not also be put up in the vicinity of places of worship like churches, temples, mosques, etc. Perhaps the Government may consider the point whether they can do so in the rules they are framing under this legislation. As far as possible, the Government must see that cinema houses are not opened in the vicinity of temples, mosques, churches, etc.

(At this stage, the Hon. Chairman occupied the Chair.)

"The most controversial clause in this Bill is clause 6 which deals with the power of the Government to issue directions. I also went carefully through the report of the Select Committee. Though cinema proprietors feel that the Government are taking powers to compel them to exhibit films of scientific or educative value, I for one do not feel that there is any compulsion involved. I do not go to pictures often and I attend pictures very rarely. But I know from experience that people who attend cinemas like these films dealing with news, current events, etc., because they are of
10-40 a.m. educative value. In fact the Hon. Minister for Education has stated that he is making representations to the Central Government that they should give proper snaps of the events, educational and other, of our State. Therefore, when that is done we can have no valid objection.

"With regard to the question of compulsion that the cinema-owners should show educational films not exceeding 2,000 feet, I feel it is a good thing. The other day replying to a question in the Lok Sabha the Hon. Minister in-charge of Information and Broadcasting said that he has received a large number of representations from institutions and individuals asking why the exhibition of educational films has been stopped in the State of Madras; that under the provisions of the existing Act the Government could not compel them and that the Act is going to be amended so that all the cinema-houses in the State of Madras will be forced to exhibit educational films. The Hon. Minister also gave figures. An argument was advanced 'If you do not have compulsion, cinema-owners of their own accord will exhibit these films.' I do not think it is possible, as it was stated that out of 300 cinema-houses, hardly 50 or 60 are exhibiting these educational films and out of 200 touring cinemas not more than 15 to 20 are exhibiting these films.

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Therefore, Sir, till such time that they themselves take to it, a certain element of compulsion is necessary. The cinema-owners are not paying for it. After all we are paying for it. Last week I saw a documentary film relating to Bhakra dam. People of Madras may not be able to go to that place and it was really worth seeing. There were some snaps of the handloom week also and that will give an opportunity to the Northerners to see what Madras has done in this matter. If we pay Re. 1-4-0 for a particular class we pay a part of it, 2 annas or 3 annas whatever it is, for that particular film and the rest for the other things. Previously in cinema-houses which were showing foreign films, there would not be a show without a foreign documentary film. Therefore, there is no reason why we should not see our own films of educative value, particularly when the State is aiming at a Welfare State, and when there are so many other activities. I hope the cinema-owners themselves will accept this with good grace.

"An hon. Friend of mine in the other House, Sri Kolkebail, suggested that the Government should insist upon National Anthem being sung in the cinema-houses. At the earlier stages some attempt was made to have it sung at the end of the show and it looked very bad that when the National Anthem was sung people should leave cinema-houses. If the Hon. Minister accepts the suggestion of the hon. Member, I would request him at least to insist under the rules that National Anthem should be sung in the beginning of the show. Because if it is sung at the end, uneducated people may not know what they should do and some of them may innocently walk out when it is sung. So, if it is sung at the beginning it will create in the minds of the public, particularly the lower-middle class and middle-class people who visit the cinemas, a habit of respecting the National Anthem.

"On the whole, there may not be many objections to this Bill. With regard to the fear of my hon. Friend Sri Gurunandan Row that the Government may refuse licences, I feel that the Hon. Minister for Finance who is anxious to have as much money as possible for the coffers of the State Government will be the last man to refuse licences, provided these conditions are fulfilled. (Interruption.) The officers also know the mind of the Government Therefore, Sir, I support this measure."

SRI K. BALASUBRAMANYA AYYAR:—"I welcome this Bill, but I want to make one or two criticisms. In clause 5 various reasons for refusing a licence have been enumerated. One of the considerations that will apply for the purpose of granting a licence is 'the interest of the public generally' and it will cover a large number of cases. It is better to specify some of the cases at least, so that it may be of educative value to all those people. Films can always be used for good purposes as also for bad purposes, just as all scientific discoveries nowadays can be used for good purposes and also for bad purposes and even atomic energy,

they are thinking of controlling. Therefore, it is better to have a control in respect of films also. As stated by the hon. Member Sri G. Krishnamoorthi, for example there may be films tending to spread corruption and impairing the morals of the community or of introducing anti-social elements, so that there may be disaffection between community and community. All these things may be generally stated, so that they may be taken into consideration in granting or refusing the licence.

"Another consideration, 'the suitability of the place where the cinematograph exhibitions are proposed to be given'. I think this is very vague. In very important residential localities licences for cinemas should not be given. For example, those who are living in Luz Church Road are sufferers in this respect. Everyday nobody can sleep till 2 o'clock. It is better to suffer from insomnia. There is lot of noise till 2 o'clock. It is not also good for the poor people who have worked during the whole day and it is deleterious to their health. These things should be taken into consideration. Where the majority of people object to any cinema-house being run in a particular locality, licence should not be granted. We all objected to a cinema being located in our locality, but nobody cared. Therefore, I would like to suggest that this aspect also may be taken into consideration. Something may be specified, as the phrase 'suitability of the place' is general, so that it may be a guide for the people who apply for licence. Instead of suspending the exhibition of a film which is likely to cause a breach of the peace, the Government can very well refuse to grant licence in such cases.

"Clause 6 of the Bill is rather hard, as the licensees are compelled to exhibit films of educative value, etc. There is no provision for paying them any compensation for exhibiting the educational films. (Interruption.) They have themselves to do it and thank themselves. It will be rather hard. But it is in consonance with the taking away of the general spirit of Articles 31 and 19 of the Constitution and therefore, it will be a cry in the wilderness to talk about Constitution. They can do anything under the circumstances. I have come to the conclusion that right of property has become illusory hereafter under this Constitution. It is unnecessary to talk about rights of property, compulsion and so on. They have taken power to do it and they can do it. I hope and trust that Government will consider giving some compensation to people who are forced to show educational films. The hon. Member Sri Raza Khan said that they will all pay. But people will not go to scientific or educational films. That is the difficulty. Therefore, cinema proprietors will stand to loose. I am perfectly sure that our people generally do not want any real education from these films, but rather recreation and pleasure and that is their chief object in going to the films.

"Under Clause 8, I suggest the penalty may be rigorous imprisonment for one month or so, or else people will have the

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heroism to break the law and go on continuing to break the law. They can very well pay a fine of Rs. 100 or so because they will be getting Rs. 1,000 by breaking the law.

"I am glad that at least in this Bill it has been put in that the rules will be placed on the table of both the Houses of the Legislature. It was not the case in regard to other Bills. 10-50 a.m.

"These are some aspects of the matter that I wanted to place before the Hon. Minister for consideration."

* SRI A. M. ALLAPICHAI :—"Mr. Chairman, Sir, there has been some difference of opinion about this Bill quite legitimately because some of the hon. Members feel that whatever is shown in cinema-houses sometimes leads to the formation of bad character. I think there is some force in that argument, but one thing we have to remember. These film-producers are there to make money. Perhaps the Government also expect to take some money out of it. The chief object of these film-producers is to make money. No doubt, incidentally, there is also an attempt at social reform. Sometimes the tyranny of zamindars and things like that are depicted and sometimes the behaviour of bad, rich people is depicted. But we have to remember that all these films are produced by third-rate men. I am not talking from the technical point of view. From the technical point of view, it may be that they are produced by first-class men. But as far as the material is concerned, it is not good. For example, let us take Shakespeare's works like Othello and Julius Caesar. An author like him has not produced any such thing which is shown in our cinema-houses. What happens here is this. Some producers get at a number of hacks; someone is asked to do something and some other man is asked to do something else. Thus, some kind of a chow-chow is created. What the result is, we know. The fact is that a producer himself, first of all, makes up his mind. He decides what kind of picture will bring some profit. With that object in view, he produces some picture. As our Friends Sri Balasubramanya Ayyar and others have put it, sometimes those pictures are very low. Therefore, the Government also must feel their responsibility in respect of this matter. If stories are written by really good, honest and learned men, things will be better. But they are not done so now. As a matter of fact, very bad things are depicted merely because the authors do not have any training. Therefore, if the Government see that in producing these films learned men also have a share, then things may improve. But as it is now, the writer of the story may not even be known. On the other hand, a film star may get a fee of a lakh of rupees. The author of the story may get not even Rs. 500. There may be a little exageration in respect of the figures, but the point is the author gets very little money. Supposing a man like Shakespeare is living and he produces a picture like Othello, I do not think the producer will go to him and take

from him a film. Great men won't descend to the low level of writing. Therefore, it is the imperative duty of the Government to see that the tone of the films is raised.

"The hon. Member Sri Krishnamoorthi wants to make the whole society puritanic. It is not possible in the twentieth century. As a nation, we cannot be other-wordly-minded. We cannot now think of puritanic days. What harm is there if there is a picture unless it be a wicked picture? The Government must see that the authors are helped. The educated people are ignored in every section of the society. It is the imperative duty of the Government to see that educated people also have their share in the good things of the world and of the country."

* SRI K. BHASHYAM :—" Mr. Chairman, Sir, I am not going into the merits or demerits of the Bill. Much has been said about them. I would like to have some information on one or two provisions of this Bill. Clause 3 of the Bill says—

'. . . no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act, or otherwise . . .'

I would like to know whether it will not really affect any private exhibitors. People may have in their own houses some plays enacted or cinema film exhibited to their own friends and relations for entertainment. According to the clause, even they should possess a licence for the purpose. There are places where Medical Colleges hold exhibitions of surgical operations and other things. There are also small exhibitions in various schools and colleges in respect of the subjects taught therein. Therefore, unless we make the provisions of the clause clear, it will affect a number of people. Of course, it may be said that the Government are not going to take serious notice of such exhibitions. I daresay it may be so. But what will happen if some cantankerous person or a policeman takes it into his head to prosecute a person who wanted to or did exhibit privately such a thing as this? Therefore, the word 'otherwise' must be made clearer than what it is now.

"So far as clause 5 is concerned, while every facility is given to all other persons, that is to say, for the other exhibitors in the place, any local authority or police authority to make representations, why not the representatives of the residents of the locality be given an opportunity to make such representations? They may object or they may not object. But supposing a licensing authority refuses to grant a licence on the sole ground that the people of the locality object to such a grant, the aggrieved person may go to Court by means of a writ petition saying that the opinion of the residents of the locality is not one of the factors to be taken into consideration under this Bill. Then the Court may quash the order of the licensing authority. Therefore, the Government must put in a clause that any representation by the residents of the locality must also be considered before granting a licence.

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" One more point and I have done. Sub-clause (4) of clause 5 says—

' The Government may issue such orders and directions of a general character as they may consider necessary, in respect of any matter relating to licences for the exhibition of cinematograph films, to licensing authorities ; and every licensing authority shall give effect to such orders and directions. '

It is too vague and indefinite, according to me, to be supported in a Court of Law. The discretion is so wide and absolute that anything can be done under the shelter of the clause. But there are certain persons who may try to see that such instructions that may be issued in the form of rules are quashed. The discretion is so arbitrary that it may not be possible to uphold the orders.

" These are the points I would like the Hon. Minister to consider. If it is not possible to do anything immediately, necessary steps may be taken at a later stage."

* DR. A. SREENIVASAN :—" Mr. Chairman, Sir, I rise to oppose this Bill and that for a good reason. My speech also will be limited. It is this. Hon. Members have been waxing eloquent about the educative and utility value of the approved films. I am not a regular cinema-goer. Occasionally I go to pictures. I have always thought that it is an infliction on the intellect of the audience to show these approved films to them. Only imbeciles can think of getting any education from the exhibition of such films. Only they can think of developing their intellect through this auditorial or visual education. I consider it a terrific infliction at any rate. Every time I went to the theatre, I went fifteen or twenty minutes late so that I might not be insulted by the exhibition of such films. If the Government think of improving the sanitation of theatres or do some such thing, I can appreciate it. But I go to the cinema-house for the purpose of witnessing a particular picture and I never bargain for this infliction of witnessing the so-called approved films. But the Government are trying to intervene between me and the cinema-owner. This is something not liked by anybody." 11 a.m.

* SRI T. PURUSHOTHAM :—" Mr. Chairman, in supporting this Bill, I wish to state that cinema having come to stay, the exhibition of films should be regulated. In doing that, I feel, there is no restriction placed on the freedom of the individual, as has been stated by the hon. Member Mr. Gurunandan Row. I believe the Bill relates to public shows only and that it will not affect private shows of films. For instance, the other day, on the Legislators' Hostel Day we had a cinema show in Rajaji Hall. I believe such shows will not be prohibited under this Bill. If there is no provision against the free exhibition of such shows, I am sure the Government will issue very clear instructions in the matter of exempting private shows from the operation of the Bill.

" The provision in the Bill for the exhibition of educational and scientific films and documentaries should be welcomed because cinemas are spreading to the villages also. Provision of recreational facilities in rural areas is also stressed as an item of our

village development schemes. Mahatma Gandhi in his plan of a model village has said that there should be recreational facilities in the villages. Though he did not particularly mean cinemas I would urge that there should be strict regulation of cinema shows now that they are spreading to all interior places.

"It is a patent fact that there are no permanent cinema theatres in rural areas. Therefore, some facilities should be provided to touring cinemas to exhibit their shows in the villages As it is there is great difficulty and hardship experienced by touring cinema-owners in getting licences for exhibiting films under the Cinematograph Act. The difficulties and hardships experienced by these touring cinema-owners should be considered and remedied by the Government by simplyfying the procedure now laid down for obtaining licence. The applications for licence are referred to so many agencies. First, application has to be made to the District Board or the Panchayat Board, as the case may be and they in turn send the applications to the District Health Officer who sends them on to the health inspector. On their report, the concerned Board has to sanction the grant of a licence under the Places of Public Resort Act and also to accord permission for installation of the necessary equipment under the Local Boards Act. Then the District Collector has to be approached for a licence under the Cinematograph Act. Before that, the Fire Officer of the district has to be consulted and the local police, the electrical inspector and the Taluk Magistrate have to furnish reports. Then according to the proposed legislation, for the exhibition of documentaries, etc., the Films Division of the Ministry of Information has also to be approached for a certificate. After running up and down to these various authorities, the licence that is issued is only for six months. Recently, the Andhra Government passed orders to the effect that licence be issued to touring cinemas for a period of one year. I request that the same provision may be introduced in this State as well because these touring cinemas are taking films to remote villages and exhibit them for after all a low charge. Some relief should be given to them. Then, to avoid the delay in the grant of licences, I feel that the licensing power should be vested in one authority and not in so many authorities that we have at present. Of course, the reports of the District Health Officer on the public health condition of the place and of the electrical inspector have to be obtained. But I feel that there should be only one authority to be approached for the grant of a licence. Then as I have already said, the period for which a licence is to be valid should be one year and not six or three months as it is at present. I would suggest that the Government may take into consideration all these suggestions when they frame fresh rules under the present legislation. With these remarks, I support the Bill."

* SRI A. GAJAPATHY NAYAGAR :—"Mr. Chairman, this Bill provides for the regulation of exhibitions by means of cinematographs in the State of Madras. It has come so close upon

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the passing of the Dramatic Performances Act that I am wondering as to what the State is proposing to do in the matter of regulation of exhibition of films and dramatic performances. This State declares itself a secular State and forswears all religion. Having said so, it now comes forward as the custodian of the morals of the people and in that view wants to regulate these things. I am afraid, the State in its care for the morals of the people, will play into the hands of diehards who want always the *status quo* to remain and who want always to stick to the past. The State, in its zeal for protecting the past, will stand in the way of progress and the making of an advanced welfare society.

" Now, apart from the question whether there should be any regulation in the matter of public entertainments, I want to know whether a licence is required for the exhibition of a film in a private house. In clause 2, item (5), ' place ' is defined as including a house. Suppose I take photographs of a ceremony or a big procession or a conference and want to show the film to certain persons in my own house. I want to know whether I should take out a licence for it. I do not collect any fee for the exhibition. I want a clarification on this point.

" Then, Sir, in the matter of law-making, the principle must always be ' certain things should not be done ' and not ' certain things should be done '. It is always a question of prohibition of certain things and not otherwise. The danger comes this way. The Government may introduce approved films which the public may not like to see. As I have often said, the proof of the pudding is in the eating of it. (Sri Mohamed Raza Khan : ' Where is the pudding? ') That is what I say. The Government are trying to enforce certain things to the detriment of the free expression of the individual. As I said last time, everything depends upon the working of the Act. The more laws you make, the more they are observed in the breach rather than in the observance. We 11-10 a.m. find that public become corrupt in their morals by these laws or rules. That is our sorry experience. The more rules we pass, the more we find the public becoming corrupt to the core in their morals.

" Even though you want to enforce so many things, you have failed very badly in not enforcing the rule of National Anthem. I find people, especially Government servants, moving about when the National Anthem is being sung. With some photograph or other, people are moving about when National Anthem is played. In cinema houses, when the National Anthem is being sung, people move about, without observing the rule to stand in veneration when the National Anthem is being sung. Therefore Government could at least do one thing. Let them enforce the rule with regard to National Anthem. Let it not be disobeyed. With these words, I oppose the Bill."

THE HON. SRI C. SUBRAMANIAM :—" In considering this Bill, we have to bear in mind the scope of the Bill and also the

scope of the legislative authority of this House. Hon. Members may be aware that Item 60 in the 7th Schedule (List I) of the Constitution relates to the sanctioning of cinematograph films for exhibition. Therefore sanctioning of cinematograph films for exhibition is purely a Union subject. Therefore the censorship of films and what should be the contents of the films is exclusively a Union subject. We can have nothing to do with that. The Centre has passed legislation concerning that and they have set up machinery to administer that Act.

" Sri Gajapathy Nayagar said that in a secular State the morals of the people are being infringed by these laws. We are not concerned with that. According to Mr. Gajapathy Nayagar, a secular State should have no moral basis. That seems to be the impression which he gave me. Let me say to Sri Gajapathy Nayagar that that is a wrong impression. (Sri Gajapathy Nayagar: 'I want more moral freedom and not moral instruction.') I do not know what he means by that. Whatever it is, we are not concerned with that. What we are concerned with is Item 33 in the Second List, viz., the State List. We are concerned with theatres and dramatic performances and cinemas (subject to the provision of Entry 60 of List I, viz., Union List), entertainments and amusements. These are things with which we are concerned. Therefore consorship of films does not come under our control. But we can regulate the exhibition of films whenever necessary. A large number of people gather for seeing these films in the theatres, and therefore the State has got to see that proper sanitary arrangements, safety arrangements and other things are made available in the theatres and there is no danger either to the public health or to the law and order position. We should also see that no nuisance is caused to others. All these factors will have to be taken into consideration. That is the first thing. The second thing is, can we licence an unlimited number of theatres? That also will have to be taken note of. A large investment is required for setting up a theatre. That means very large investments from our national resources are being utilized for putting up these theatres and for the purpose of installing the necessary machinery in the theatres for exhibiting the films, which machinery have got to be imported necessarily from abroad, that is, from foreign countries. All these will have to be taken into consideration. These things were squarely put to the persons who came to offer their evidence when this Bill was being discussed by the Select Committee. Of course there was the suggestion from the section which represented producers that there should be unlimited number of theatres. I could understand their point of view. But as far as the exhibitors are concerned, they expressed the view that there should be some sort of restriction. Because there is an impression that this is a paying business, a large number of theatres might be constructed, even though they may not be necessary to meet the demands of the public in a particular area. Therefore Government should take into consideration the necessity for further theatres in any particular locality. Taking into account

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the population in a particular area and the necessity for sufficient number of theatres to meet the public demand in that particular area, further licences should be given or refused according to the merits of the case. That is why necessary provision for that has been laid down under Clause 5 of this Bill. After all we cannot allow unrestricted competition in an industry wherein large investments are necessary. Take for instance, the industrial sector. Licensing is there for various trades. Some sort of regulation is neccessary because large capital investment is there. We cannot allow unrestricted competition in a field wherein a large investment is necessary. That is why so far as these theatres are concerned, we have to take into account the requirements of each particular area and the number of theatres have to be restricted consistent with the public demand. That is the view that has been expressed and that is why we have laid down the formula in Clause 5 with reference to already existing theatres. It is not as if we want to go into the entire regulation and we want to impose restrictions so much so it may not be possible to run films at all. That is not our idea. The hon. Member Mr. V. G. Row was putting it on the basis that it will be infringing upon one of the fundamental rights, viz., the freedom of expression. Sir, what we have done now should not mean any curtailment of freedom of expression. After all we know that nobody can own a car without a licence. But that is not an infringement of freedom of movement. As far as walking is concerned, no licence is necessary. So also when an expression is made through a medium, the means adopted for the purpose of that expression should be taken into consideration. Whether it is for the sake of oneself or for doing propaganda will have to be taken into account and then necessary restrictions will have to be placed. For example take an aeroplane. A greater restriction has got to be imposed while granting licences for flying, because it involves the lives of many who travel by the plane. A slight defect would mean the danger of the lives of those travelling by the plane. So also the medium of propaganda. Suppose a person takes a picture and goes on taking it in the streets, certainly it requires no licensing, provided it is not indecent. But with reference to powerful expressions of propaganda which are instituted through the Printing Press and exhibition of films, there should be some sort of regulation in the interest of the public because of the very nature of the medium used for propagating these things. That is where the State comes into the picture.

"As far as Clause 3 is concerned, it will have to be read along with Clause 11 wherein the power to exempt certain classes of films is given. Taking into consideration the cinematograph industry as a whole, Government think it necessary to have some regulation with regard to exhibition of films. For private exhibition of films in houses and in educational institutions, we may say no licence is necessary. Exemption may be given in those cases. In due course we would consider those things and where we feel that exemptions may be given, necessary exemptions will be given. In

fact under Clause 11 the power to exempt certain classes of films is given to Government. Therefore, I say it is in the public interest to have some sort of regulation in respect of these cinematograph films.

" A point was raised as to why Government should issue general instructions under sub-clause 4 of Clause 5. Formerly it was Government who had appellate powers. They had the power to interfere in each individual case. We have now decided that Government need not interfere with quasi-judicial functions and interfere in individual cases. Therefore Government would hereafter only lay down general policies. I am answering the point raised by Mr. Bhashyam also. We cannot go beyond the scope of the Act. We have to act within it. We would lay down general policies which will be followed by the various licensing authorities. These general instructions cannot go beyond the scope of the Act itself. Suppose while granting a licence, some of the provisions of the Act have been ignored by a licensing authority. Therefore it would be better for Government to lay down general policies to be followed by the various licensing authorities while granting licences. Suppose there is an area wherein the population is, say, 10,000. I am only giving an instance. It may not be quite accurate. Suppose there is no large influx of floating population in that area. One theatre may do for that particular area. It may not be necessary to increase the number of theatres in that particular area. We lay down general principles. So, we can only issue general directions, not with reference to particular cases. I thought that should be more welcome than the revisional power of the Government according to which the Government will have
11-20 a.m. power to interfere in individual cases. My own view is that in all these cases, where the interpretation of the statute is involved or where the grant of a licence is involved, Government should not come into the picture either as an appellate authority or an authority having revisional powers. So far as individual cases are concerned, the Government must have power only to lay down general policies. It is the Tribunal concerned which should have the power either to interpret the statute in respect of the grant or refusal of a licence. If there is any infringement, there is the judiciary which will ultimately interfere in the matter on a writ petition and give its verdict. I think we have made a change in the right direction by abolishing the revisional powers of the Government and saying that the Government will have powers only to issue general directions and lay down policies.

" Then, with reference to the location of the theatres in residential areas and all those matters, we will certainly take into consideration all the points mentioned by hon. Members when we frame rules wherein we may lay down the principles which should govern the selection of a suitable place. I do not think we can lay down in the Act itself a provision with regard to the suitability of the place. I think it has to be regulated by the rules.

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" Sir, I am glad Dr. Sreenivasan is here. He said that these documentaries were an infliction. I am not surprised that he has found the documentaries and other educative films an infliction, because, these things are intended for normal, average people and not for abnormal people like Dr. Sreenivasan."

DR. A. SREENIVASAN :—" Do you mean pathologically? "

THE HON. SRI C. SUBRAMANIAM :—" Sir, Dr. Sreenivasan is more intelligent than the average people. In that sense I said that he was an abnormal person. These documentaries are intended for normal, average people. They want these films and they appreciate them, as was represented by the hon. Member Sri Raza Khan. If Dr. Sreenivasan does not want to see these films when he enters into a theatre, he can very well shut his eyes when those films are exhibited or he may enter the theatre at a later stage, i.e., after these films had been shown. As a matter of fact, these films are necessary and useful to the ordinary people, most of whom are uneducated and are not as intelligent as Dr. Sreenivasan, who thinks that he is above all things, modern, old, ancient or whatever it is. We are not concerned with such people. We have to cater to the ordinary people, the average people. It is for the advantage of the ordinary, average people, some arrangement must be made. Dr. Sreenivasan is not an ordinary person. It is in that sense I have said that he is an abnormal person."

MR. CHAIRMAN :—" Not pathalogically? "

THE HON. SRI C. SUBRAMANIAM :—" Sir, therefore, there can be no valid objection to the passing of this measure. We have taken into consideration the various aspects. Of course, by experience we may learn something more and it may be necessary to make some more changes at a later date and that will be done by our successors who may be in office at that time. We think that this is a very reasonable provision that we are making for the purpose of regulating the exhibition of films in the interests of the community as a whole.

" With reference to the other points referred to by the hon. Member Sri Krishnamoorthi, particularly with reference to advertisements, I may state that unfortunately it will not be relevant to consider them in this Bill. I am in agreement in a large measure with all the ideas that he expressed with reference to adevertisements and with reference to films that are likely to affect the juvenile mind. But those are not the things with which we are concerned now in this Bill. Moreover, it is the Central Government who have to come into the picture so far as those matters are concerned. Under these circumstances, I request the House to pass this measure as it is. As we gain experience, if we think that it is necessary to make further amendments, we will certainly make further amendments as and when they are found necessary.

" As for other matters, whether it is within the powers of this Legislature to pass this Bill or whether this measure does not offend

the fundamental rights guaranteed under the Constitution and other matters, we are advised that we are within our powers in bringing forward this measure and that this will not offend the fundamental rights guaranteed under the Constitution. If in spite of the advice given by our law officers, the Courts should think otherwise, we are always bound to come before the House. After all, we are to be guided by our law officers. If the hon. Member Sri Gurunandan Row should think that our law officers are not competent, it is a matter of opinion. As far as we are concerned, we have been advised by our law officers that we are within our powers. Therefore I request the House to pass this measure."

MR. CHAIRMAN :—" The question is—

'That the Madras Cinemas (Regulation) Bill, 1954 (L.A. Bill No. 52 of 1954), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clause 2.

SRI K. BALASUBRAMANYA AYYAR :—" Mr. Chairman, in clause 2 (2), it is said, 'District Collector' in relation to the presidency-town, means 'the Commissioner of Police, Madras'; Sir, the expression 'presidency-town' can no longer be used. It was used in the old British days. I only wish to point out that, under the present context, such a term cannot be used."

THE HON. SRI C. SUBRAMANIAM :—" Sir, I do agree that strictly it is wrong to use that term. It may, however, be used here as it carries the sense. In other matters, we shall see that that term was not used.

Clause 2 was put and carried.

Clauses 3 to 12 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI C. SUBRAMANIAM :—" Sir, I move—

'*That the Madras Cinemas (Regulation) Bill*, 1954 (*L.A. Bill No.* 52 *of* 1954), *as passed by the Assembly, be passed.*' "

MR. CHAIRMAN :—" Motion moved—

'That the Madras Cinemas (Regulation) Bill, 1954 (L.A. Bill No. 52 of 1954), as passed by the Assembly, be passed.' "

* SRI K. BHASHYAM :—" Sir, as regards the power taken by the Government in respect of the general rules to be framed, I wish to remind the Hon. Minister that there is a similar provision in the Motor Vehicles Act. Directions were issued from time to time in respect of each particular case and the matter had really to be examined by the Judges and some of their remarks were not quite complimentary. I only request the Hon. Minister to look into the matter and frame the rules as early as possible."

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THE HON. SRI C. SUBRAMANIAM :—" Sir, I may assure the hon. Member that as long as I am responsible for this, no interference in individual cases will be resorted to. Our intention is only to lay down general policies for the guidance of the licensing authorities. As a matter of fact, that is our intention in respect of the Motor Vehicles Act also. I thought that the criticism with regard to that Act was with reference to the orders passed under section 64-A which has now been revoked. (Interruption.). It is not with reference to section 43-A or any other section. There has been criticism only with reference to the orders passed under section 64-A which has now been annulled."

MR. CHAIRMAN :—" The question is—

'That the Madras Cinemas (Regulation) Bill, 1954 (L.A. Bill No. 52 of 1954), as passed by the Assembly, be passed.' "

The motion was carried and the Bill was passed.

(2) THE PRESIDENCY SMALL CAUSE COURTS (MADRAS AMENDMENT) BILL, 1955 (L.A. BILL NO. 8 OF 1955).

THE HON. SRI C. SUBRAMANIAM :—" Mr. Chairman, I move—

'*That the Presidency Small Cause Courts (Madras Amendment) Bill*[a], *1955 (L.A. Bill No. 8 of 1955), as passed by the Assembly, be taken into consideration.*' "

SRI K. BHASHYAM :—" Sir, I thought that the Court Fees Bill will be taken up before this Bill."

MR. CHAIRMAN :—" I think it was decided to take the Bills in the order in which they are given in the Agenda."

THE HON. SRI C. SUBRAMANIAM :—" Sir, this Bill is a very simple one. Whatever objection was there to this Bill, was removed by the amendment made to the Bill in the Assembly with reference to the scale of court-fee payable. There was no provision for the collection of court-fee in cases of pauper suits even when the plaintiffs succeeded in the Presidency Small Cause Courts. That is being amended now. Then with reference to the scale of fee, a special scale of fee was prevalent in these courts. As a matter of fact as high a rate as Rs. 2 up to amounts of Rs. 200 was collected. Over and above that $11\frac{1}{4}$ per cent was collected, up to Rs. 2,000. Above that there was another scale. Now we have passed in the Assembly the Court Fees Bill. That will be coming up before this House a little later. Since that is also coming up we have made the rates uniform and said that $7\frac{1}{2}$ per cent will be the rate in respect of these courts also. This rate having been accepted by the Assembly, I do not think there will be any serious objection to the passing of the Bill here." 11-30 a.m.

[a] Printed as Appendix III on pages 984–988 infra.

MR. CHAIRMAN :—" Motion moved—

' That the Presidency Small Cause Courts (Madras Amendment) Bill, 1955 (L.A. Bill No. 8 of 1955) as passed by the Assembly, be taken into consideration.' "

SRI K. BALASUBRAMANYA AYYAR :—" Mr. Chairman, Sir, there are one or two points on which I want to say a few words. So far as the pauper suits are concerned, it is all right to collect the court-fee in the case where the plaintiff succeeds. But when a pauper suit is dismissed, it will be a great hardship if the court-fee is to be collected from the plaintiff. New section 74-B says :

' Where the plaintiff or applicant fails in the suit the Small Cause Court shall order the plaintiff or applicant or any person added as a co-plaintiff to the suit to pay the fee. . . .'

This is rather hard. There was no such provision at all in the Presidency Small Cause Courts Act. When the plaintiff succeeds it is all right to collect the fees. In that case the defendant will pay the costs. That will be the first charge on the subject-matter of the suit. These suits are instituted mainly to benefit the paupers. A very large number of these suits are for very small amounts of about Rs. 500 or Rs. 1,000. The suit is registered as a pauper suit because the person concerned is not able to pay the court-fee. Therefore it would be a great hardship if the Government were to collect court-fees from persons who fail in the suits."

THE HON. SRI C. SUBRAMANIAM :—" We will collect the fees only when he succeeds in the case and gets properties."

SRI A. M. ALLAPICHAI :—" The court will go into the question whether he will be able to pay the court-fee or not."

SRI K. BALASUBRAMANYA AYYAR :—" Sir, apart from the subject-matter of the suit, the suit of the man who is unable to pay the court-fee even on Rs. 500 is registered as a pauper suit. Supposing in that case he fails for other reasons, how can he pay the court-fees? That would be very hard on him. That is why the Presidency Small Cause Courts never interfered in such cases, whether the plaintiff succeeded or failed. So far as recovery of court-fees in cases where the plaintiff has succeeded, the defendants are asked to pay. It is also the first charge on the subject-matter of the suits. Why extend this principle of collecting fees in cases where the plaintiffs fail.

" Then with regard to the new section 74-C which says : ' Where a Small Cause Court finds that a suit or application received and registered under section 74 has been instituted unreasonably or improperly . . .' What is unreasonable and improper, I do not understand.

" These two provisions will work great hardship on the plaintiffs. These provisions were not there formerly. Why introduce them now?

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"Then, Sir, the fee for vakalatnama has been increased to Rs. 1-8-0. These Small Cause Courts were really intended to benefit the poor people. That is why these fees were not at all fixed for all these things. Why should they be increased now? The present rates may be allowed to remain. But if the Government still want that the rates given in the Bill should be collected, let them have it. When the rules were framed by the great English administrators, these were intended to benefit the poor people and therefore they did not impose high fees. I do not understand why we should now increase the fees.

"Then, Sir, there is another aspect of the matter. I do not know whether the Government have considered that or not. In the Presidency Small Cause Courts Act there is section 40 under which power was given to the Original Side to try suits above Rs. 1,000. Now if Government want these things to go to the City Civil Courts, that provision has got to be amended. These are the points I wanted to mention, Sir."

THE HON. C. SUBRAMANIAM :—"Mr. Chairman, Sir, these are not new things. What is done in the Civil Procedure Code and in the mufassal courts is being incorporated in the Presidency Small Cause Courts Act. If a partner has to pay court-fee in the mufassal courts I do not see why a similar person simply because he is residing in the City should get exemption. With reference to the point made by the hon. Member Balasubramanya Ayyar regarding the losing plaintiff that he is being made to pay court-fee, it is only subsequently when he becomes possessed of property that execution is taken against him for the collection of the court-fees, and the court-fee realized from him. This is the case in the mufassal also. The Collector makes an enquiry and if he finds that subsequently he has become rich and acquired property, then only he is proceeded against. That provision will have to be there. Otherwise all sorts of frivolous suits may be filed in the courts and we will only be encouraging them. I do not think we are making any extraordinary provision. We are only adopting the Civil Procedure Code. Simply because a person resides within the limits of Madras City, it does not mean he should have greater privileges than those enjoyed by a similar person residing in the mufassal. Regarding vakalatnama also, Rs. 1-8-0 is the fee prescribed in the mufassal courts also. Therefore, I think, I cannot make any distinction between the City courts and the mufassal courts. We are only trying to adopt a uniform rate for the City as well as the mufassal courts."

SRI A. M. ALLAPICHAI :—"Why not reducce the rates in the mufassal instead of increasing the rates in the City courts?"

MR. CHAIRMAN :—"The question is—

'That the Presidency Small Cause Courts (Madras Amendment) Bill, 1955 (L.A. Bill No. 8 of 1955), as passed by the Assembly, be taken into consideration.'"

The motion was carried and the Bill was taken into consideration.

Clauses 2 to 8 were put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI C. SUBRAMANIAM :—" Mr. Chairman, Sir, I move—

> ' *That the Presidency Small Cause Courts (Madras Amendment) Bill*, 1955 (*L.A. Bill No.* 8 *of* 1955), *as passed by the Assembly, be passed.*' "

MR. CHAIRMAN :—" The question is—

' That the Presidency Small Cause Courts (Madras Amendment) Bill, 1955 (L.A. Bill No. 8 of 1955), as passed by the Assembly, be passed.' "

The motion was carried and the Bill was passed.

(3) THE TANJORE CHATTRAM ENDOWMENTS (UTILIZATION) AMENDMENT BILL, 1955 (L.A. BILL NO. 10 OF 1955).

11-40 a.m. THE HON. SRI B. PARAMESWARAN :—" Mr. Chairman, Sir, I move—

> ' *That the Tanjore Chattram Endowments (Utilization) Amendment Bill*[a], 1955 (*L.A. Bill No.* 10 *of* 1955), *as passed by the Assembly, be taken into consideration.*'

The Tanjore Chattram Endowments are under the control of the District Board, Tanjore. Under the provisions of the Tanjore Chattram Endowments (Utilization) Act, 1942 (Madras Act VIII of 1942), the income from the Tanjore Chattram Endowments are utilized for the maintenance of certain educational and medical institutions.

" At the instance of the Tanjore District Planning Board, steps are being taken to start a first-grade college at Tanjore. To accord recognition to the college, the Madras University requires a financial guarantee of about Rs. 5 lakhs. The District Board, Tanjore, has come forward to set apart the surplus funds of the Tanjore Chattram Endowments amounting to Rs. 4,94,500 as security for getting recognition to the proposed college and to make a fixed annual contribution of Rs. 15,000 for its maintenance out of the interest derived from the above security. The trust will be under the joint control of the Madras University, the District Board, Tanjore, and the managing body of the proposed college. To enable the district board to give effect to the decision, the Tanjore Chattram Endowments (Utilization) Act, 1942, has to be amended.

[a] Printed as Appendix IV on pages 988–989 infra.

"The Agricultural Training School, Orathanad, which was run by the District Board, Tanjore, from the funds of the Tanjore Chattram Endowments was closed with effect from 1st April 1954, as it was uneconomical to continue the school. Consequent on its closure, it has been decided that the lands and buildings attached to it should be leased, free of rent or at concessional rate of rent to any department of Government, any local body or any private agency for the purpose of running farms for improvement of live-stock. The immediate intention is to grant the lands and buildings to the Animal Husbandry Department, free of rent, for locating a livestock farm. Clause 3 of the Bill provides for these things. Clause 4 provides for the deletion of section 3 (2) of the main Act dealing with the Agricultural Training School, Orathanad.

"Sir, with these words, I once again move that the Bill be taken into consideration."

MR. CHAIRMAN :—" Motion moved—

'That the Tanjore Chattram Endowments (Utilization) Amendment Bill, 1955 (L.A. Bill No. 10 of 1955), as passed by the Assembly, be taken into consideration.' "

SRI K. BALASUBRAMANYA AYYAR :—" Mr. Chairman, Sir, first of all I would like to have some information about the total income that is derived from the Tanjore Chattram Endowments every year and whether there is any surplus every year which is added on to the capital. I will be glad if the Hon. Minister gives that information now or later on. He can kindly ask his department to supply it because it is a matter really to be considered whether a large amount from the Chattram Endowment funds can be utilized for various purposes. The Preamble of this Bill says :

'. . . An Act to provide for the making of contributions from, and the diversion of, the funds of the Tanjore Chattram Endowments towards the establishment or maintenance of certain institutions and for other purposes . . .

There are also certain institutions specified in the schedule to the original Act of 1942. Sir, these Chattram Endowments have got a long history. They had been originally endowed by the Tanjore Rajas particularly by the Raja Sarfoji Rao. Though there may not be any express deed of trust for these endowments specifying the particular object for which they should be used, they have been used for the purpose of feeding travellers and pilgrims coming from different places to Rameswaram and other places. Even in the Tanjore District Manual mention has been made about the feeding of large number of people in those chattrams. About ten chattrams were built by the Rajas of Tanjore in the name of their relatives. The income from the funds of the endowments has been used for feeding pilgrims to Rameswaram."

SRI MOHAMED RAZA KHAN :—" This is 'educational' feeding."

SRI K. BALASUBRAMANYA AYYAR :—" We can go on feeding many things. I was speaking about the surplus funds of the Chattram Endowments and asking whether they could be used for any other purpose. It has been stated in the Statement of Objects and Reasons that a sum of Rs. 4,94,500 has been taken out from the surplus funds accumulated from time to time for the purpose of giving security for the opening of a college at Tanjore. I do not know whether this is one of the institutions which are specified in the schedule to the main Act of 1942. I want to know whether the Government are interfering with those things. It will be better if the public are satisfied about that. Sir, the income from those Chattram Endowments has been utilized for various purposes and some of them are in consonance with the spirit of the original founders. In the Tanjore District Manual it is also stated, apart from feeding, those funds could be utilized for starting schools to teach Sanskrit and other schools. There were four or five chattrams where Sanskrit classes were conducted by the Rajas themselves. That is how the founders of those endowments thought and acted. Now, we are diverting those funds for other purposes. I am against such a diversion of funds because now practically there is no feeding of pilgrims. We should be satisfied that the funds allotted for a particular institution are utilized properly for the proper purpose and whether they could be utilized for it without hindering or affecting the useful purposes which have been already mentioned in the Tanjore Chattram Endowments (Utilization) Act, 1942. I do not know whether it is in consonance with the spirit of the founders of these endowments to utilize the funds for the purpose of starting a medical college. They were for the distribution of medicines to the poor and that is why a large number of local fund dispensaries had been started in different places. Therefore, it is necessary that medicines should be distributed to the poor. I would even go a step further and say that the indigenous system of medicine should be encouraged. I think those Rajas were very much in favour of the indigenous system of medicine and those who are living in Tanjore know about it. Also, as I said earlier, these funds could be utilized for imparting instruction in Sanskrit.

" Then I come to the Rs. 4,94,500 set apart as security. I think they will be invested on the Madras Government securities bearing $3\frac{1}{2}$ or 4 per cent. The interest derived from the investment would come to about Rs. 18,000 or nearly Rs. 20,000. I suppose that it is from this amount that the district board has agreed to make an annual contribution of Rs. 15,000 for the maintenance of the first-grade college to be started in consonance with the spirit of the Chattram Endowments. In this connexion, I would suggest that large scholarships for the poor should be given. Also religious instruction should be imparted. If such things are done, they would please the souls of the Rajas who had magnanimously founded those endowments. In those days when travel was difficult and people were experiencing difficulties in regard to food during travel,

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they had founded those endowments. Now on account of transport 11.50 a.m. and other facilities that are available, this diversion of funds takes place. I would request the Government to see that the funds are not utilized for a purpose entirely unconnected with the spirit in which the original endowments were made."

SRI K. BHASHYAM :—" Mr. Chairman, Sir, I think the plea made by the previous speaker Sri K. Balasubramanya Ayyar with regard to the diversion of funds from the objects for which it was originally intended is a reasonable one. In fact, if one looks at the question from a lawyer's point of view, the diversion of funds to a purpose which was not contemplated by the original founder is unlawful and amounts to a breach of trust but for the fact that here the Government come forward and make lawful what is unlawful. The persons who are connected with the spending of money could be hauled up in a court of law. The fund was created for the definite purpose of feeding people who are travellers to Rameswaram and other places of pilgrimage. Therefore, if there are surplus funds available, they must be applied to a purpose 'cy pres' with the original object of the founder, that is to say, it must be in consonance with the intentions of the original founder. That is the meaning of the word 'cy pres' itself. Therefore, I would like to say that the Raja of Tanjore could not have intended that the fund should be utilized for the purpose of either running high schools or for the purpose of an agricultural training school somewhere in Orathanad, which is said to have been closed from April 1954. So, to say that the funds could be utilized for the establishment of a first-grade college at Tanjore is a thing very much beyond my imagination. I would like the surplus funds to be utilized for some purpose which is general in character. After all, the opening of a first-grade college will only benefit a certain number of people. It will not benefit the general mass of people. There is a T.B. sanatorium near Tanjore which was started recently. It is suffering for want of funds and the people of Tanjore are collecting money for that. Why not utilize these surplus funds for that purpose? As a matter of fact, the District Board of Tanjore has transferred some of its own money to this T.B. institution. A breach of trust is involved when you use money for a purpose which is not contemplated by the original founder. Therefore I should like this fund to be diverted to a purpose which is in consonance with the objects of the original founder. It can be utilized for affording medical relief to poor people. Of course, the original object of feeding people must be there. The poor students of the locality can be fed and can be given free education. That is certainly in consonance with the object of the original founder thereby promoting the modern idea of giving education to everybody. But the establishment of a first-grade college is something, which I feel, very far away from the intention of the original founder. I am also against multiplying the number of arts colleges and other

colleges. In spite of the very strong words used about my views in the matter, still I am against the opening of more and more colleges thereby multiplying graduates and swelling the ranks of educated unemployed. That is a thing which I do not approve of. Sir, I do not agree with this diversion of funds. In my opinion, it is unlawful to do so and it is also impolitic to do so."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Mr. Chairman, Sir, being interested in the furtherance of the educational endeavour in all the parts of the State, I cannot but support this measure as it has been brought forward. It is true that the original donor had the intention of giving free food to pilgrims. I was one of those benefited by this poor feeding almost some fifty years ago. (Laughter.) When I went as an officer to Dhanushkodi, I was supplied with all the materials required for a good meal, utensils and even firewood. Those days are long past and therefore there is no use now in speaking about feeding pilgrims. There are no pilgrims to be fed in that manner to-day. In those days there were no facilities available for food to be obtained from any quarter and every pilgrim had to cook his own food all along the line, whether it was in Rameswaram or Dhanushkodi or any part of Tanjore. The main object was that pilgrims who went for a devout purpose and who sacrificed everything and walked miles and miles in those days should be refreshed by such endeavour. To-day it is not necessary nor is it possible to feed pilgrims in such a manner. Therefore, it seems to me that there is justifiable reason in some of these surplus funds being utilized for purposes which will benefit the people in general. One of these purposes, I certainly feel, is the education of the people, especially in the modern set up. Tanjore is a very peculiar district and I have never been able to understand Tanjore or the mirasdars of Tanjore. (Laughter.) Tanjore has had only one college so far. The other college, viz., Findlay's College at Mannargudi was abolished. The Government College at Kumbokonam is there for over 100 years. A couple of years ago we celebrated the centenary of that college. When compared to Tanjore, what is the position of the other districts? In the district of North Arcot there are four colleges. In South Arcot there is a whole University. There are three colleges in Chingleput, six in Tiruchirappalli, seven colleges each in Tirunelveli and Coimbatore and five colleges in Ramanathapuram. In Malabar there are six colleges and in South Kanara also there are six colleges. Ootacamund is going to have a college very soon. The only district that has got only one college is Tanjore. (Sri K. Bhashyam : 'We are already having a number of colleges.') My hon. Friend says that there are too many colleges. I wish he says this at the time of admission of the students to the various colleges and I hope he will not write to the papers complaining about the indifference of the University is not providing adequate academic opportunity for those bright young men who come out

successful in their examinations. Repeatedly we are having this complaint and it is only within the last few years that a number of colleges have been established through the magnificent and philanthropic efforts of these districts and the criticism is having a mellowed tone. It is not altogether free but it is having a mellowed tone. Facts were placed before the public which disillusioned them about the facilities that were available. I do not know why, Sir, the mirasdars of Tanjore were so content with agricultural land and not interested in having more colleges. Although they have receded to the background more rapidly than they had imagined, I think, Tanjore is coming forward with a number of colleges. I welcome this idea and I must confess that the persons responsible had consultations with the University in regard to the starting of a college. We have made our position very clear on that point.

"The only college that is now being managed by a local authority is the Salem Municipal College and I hope that my esteemed Friend the Hon. the Minister for Education will not take it amiss and I hope that the Municipal Council, Salem, will not also take it as a criticism, when I say that the University has had more headache with that Municipal college than with all the other colleges put together. I am making this particular point because I am glad that on a representation made by the University the Government themselves passed an order stating that they were not prepared to give permission to any local board to start a college. This, however, is different. The Tanjore Chattram Endowments Fund is not a contribution of the local board. The local board is an authorised agent, as I understand it, to utilise this fund for certain purposes and therefore I feel that that District Board should not be in a different position from other district boards and local authorities in regard to the fundamental voice that it will have in the direction of the college management. I am making this remark because of the provisions contained in Clause 3 of this Bill. Sub-section 2 of proposed section 2 which is substituted for section 2 of the principal Act under clause 3 of the Bill says :— 12 Noon

'The corpus of the investment referred to in clause (b) of sub-section (1) shall be held in trust for the purposes of the said college in the joint names of three trustees, namely, the Tanjore District Board, the University of Madras and the managing body of the said college ; '

One need not take any objection so far as this portion of the clause is concerned. But it is further stated in this proposed sub-section that 'the district board alone shall be competent to draw or deal with the interest derived from the investment.' In other words, it will be open for the district board not to give the interest derived from the investment, when it is required. That is not a condition that the University has accepted, in regard to all other colleges. I respectfully suggest that the Government may have to alter this provision if the University is to accept the Chattram Endowments

as security. We cannot allow one party, namely the district board, to have a veto in regard to the money that is available out of the endowment. That is a very serious position and I would very much like the Government to consider it and remedy the defect.

" The second point, I wish to refer to, is this. The University has suggested that there should be a financial guarantee for about five lakhs of rupees so that permanent recognition to the first-grade college may be given. I am glad to say that this condition had been accepted by all the managements who had come forward to open first-grade colleges. Before permanent recognition is given to a first-grade college, a sum of Rs. 5 lakhs should be made available. Sometimes, this investment may yield more interest and sometimes it may yield less interest. Sometimes it may be two per cent and it may be four or five per cent at other times. If there is a sum of Rs. 5 lakhs, whatever the yield from the investments be, it will be added on to the corpus of the college so that not only the recurring charges may be incurred therefrom but also the management of the college may have some idea as to how it may be used for improving the college by institution of new courses of study or for equipping the laboratories or for improving the facilities available to students in the shape of reading rooms, playgrounds, etc. There are hundred and one ways in which this may be used properly for the benefit of students. I would respectfully submit that having already given a sum which is less than Rs. 5 lakhs by about Rs. 5,000 (The Hon. Sri C. Subramaniam : ' I am sure the balance will be met by the management.') I know that once the college is started it will continue to receive fresh funds for some time more. I am only thinking of the two principles. First of all, the district board should not have any veto at all. I must respectfully point out that under the present condition the University is not likely to accept it. Secondly I would like to submit that once you have given a sum of Rs. 5 lakhs as an endowment, whatever interest it may fetch—in a particular year it may be more or it may be less—must go to the corpus of the college. That is the only way in which we have found it possible for the managements to improve the resources of the colleges. It is because of this condition that I am in a position to state that while colleges in the neighbouring States are in a tottering position and are in a most unsatisfactory position, the colleges that have been opened during the last seven or eight years are substantially sound financially and that they will be able to continue for ever.

" Now, Sir, it is not my intention to deal with another aspect of the matter that was considered at length in the other House. But I want to state that the subject of starting a Medical College at any particular centre is one that is so very comprehensive in its

scope and I would beg of anybody who is likely to speak from a parochial or district point of view to ponder over it very carefully. It is impossible to get from the Chattram Funds an endowment for a Medical College. I am not going into the merits of the question where the Medical College should be located. But let us not confuse this issue with the object of the present Bill. I say further that a Medical College or a professional College will thrive where there are Arts and Science Colleges established. We must have an atmosphere of academical solidarity for a professional College to thrive and from that point of view it is good that Arts and Science Colleges are established. The hon. Member Sri K. Bhashyam suggested that there were too many Arts and Science Colleges. Well, Sir, ways and means are being devised to reorientate education in a manner that will make it more profitable for the students to have some gainful employment. It is not by condemning higher education or the accessibility to higher education that one can set this matter right. But we must try to improve the education given now in every way possible so that we can certainly see the day when our young men and women who are coming in very large numbers will have the benefit of higher education to the extent to which their intellectual ability and their other resources might permit them to avail themselves of. On these grounds I would say that I wholeheartedly support this measure."

* SRI T. PURUSHOTHAM :—" Mr. Chairman Sir, I support this Bill and I am glad that the available funds of the Chattram Endowment are proposed to be utilised for educational purposes and also for livestock improvement. Objections were raised that the original intentions of the donor were not being respected in starting such educational institutions. The hon. Member Sri K. Balasubramanya Ayyar himself has pointed out that Sanskrit schools are being maintained out of these Chattram Funds. We all knew that out of the Chattram funds an Agricultural Training School at Orathanad was being maintained till April 1954. I do not see any reason why colleges should not likewise be opened out of the Chattram funds. Sir, it has been pointed out by the hon. Leader of the Opposition that there is only one college at Tanjore. At present there is an Arts College at Kumbakonam. Instead of another Arts College it would have been better if a technological institute or a college on occupational training were opened at Tanjore out of the Chattram funds. I feel that the Government could have taken more powers under this legislation to utilise the funds for educational purposes generally instead of restricting the scope of this Bill to the establishment and maintenance of an Arts College. The Chattram Fund is vested in the Tanjore District Board and I really thought that the District Board would be permitted to open a college. I was not prepared to hear from the hon. Leader of the Opposition about the sorry state of the Salem Municipal College. The Salem Municipality may not be able to

maintain the college efficiently. But the Tanjore District Board is a rich board and I am sure, if the management of the college had been vested in the district board, the needs of the college would be amply met and the college would be run efficiently because the District Board has got large resources at its disposal, including the Chatram Funds. It has been stated that the corpus of the investment in this case shall be held in trust for the purposes of the said college in the joint names of three trustees, namely, the Tanjore District Board, the University of Madras and the managing body of the college. I should think hon. Members would like to know why the district board should not be allowed to run the college out of the Chattram Funds under its control?"

12-10 p.m. THE HON. SRI C. SUBRAMANIAM :—"The hon. Member seems to be under the impression that this fund belongs to the district board and we are asking the district board to give it to the management of the college. This is a Chattram Fund and the district board is only an agent now for the purpose of managing the fund. Therefore, there is no question of the district board's fund being diverted now."

* SRI T. PURUSHOTHAM :—"But, Sir, the district board fund is to be given as security . . ."

THE HON. SRI C. SUBRAMANIAM :—"It is not the district board fund, but it is Chattram Endowments Fund which is a separate trust altogether."

* SRI T. PURUSHOTHAM :—"Even then, it is only to be a sort of trust fund and not an outright endowment given away for the college. If so, I think the veto voice should be with the district board and the district board should be given proper representation in the management of the college, if it is to be entrusted to a managing committee. The Hon. Leader of the Opposition has stated that the district board should not have any voice at all. I do not agree."

DR. A. LAKSHMANASWAMI MUDALIYAR :—"I am sorry to interrupt the hon. Member. I never said that the district board should not have a voice. But I do maintain that the district board alone should not be competent to draw or deal with the interest derived from the endowment. That is my chief point."

* SRI T. PURUSHOTHAM :—"The endowment funds are vested in the district board and it is the district board which is responsible for the proper management of the endowment. Though the amount may be paid to the college fund, the interest has to be drawn by the district board and the district board should have a voice in the utilisation of the interest."

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DR. A. LAKSHMANASWAMI MUDALIYAR :—" Does the hon. Member realise that it will be quite within the competence of the Government to remove the district board from the management of the Chattram Funds? "

* SRI T. PURUSHOTHAM :—" Let the Government take away the management from the district board and let them manage it. But as long as the management is vested in the district board I think that it should have a voice."

THE HON. SRI C. SUBRAMANIAM :—" Under clause 3, i.e., proposed section 2, ' The Tanjore District Board or such other authority or person as may for the time being have the management and superintendence of the Tanjore Chattram Endowments may . . . contribute. etc.' So, it is not as if the district board has anything to do with this always. Only for the time being **it is in** management and maintenance of the Chattram **Funds."**

* SRI T. PURUSHOTHAM :—" My contention is that the district board should be given proper representation on this managing body. With these remarks, I support the Bill."

SRI V. V. RAMASWAMI :—" கனம் தலைவர் அவர்களே, இந்தத் தஞ்சாவூரிலுள்ள சத்திரம் பாதுகாப்பு நிதியிலிருந்து புதியதாக ஏற்படுத்த இருக்கும் ஒரு கல்லூரிக்கு போதுமான அளவுக்கு பாதுகாப்பு ஈடு கொடுப்பதற்கு இந்தத் தொகையிலிருந்து வசதி செய்வதற்கு அதிகாரம் கொடுப்பதற்காக இந்தச் சட்டமானது கொண்டுவரப் பட்டிருக்கிறது. இந்தச்சட்டத்தின் நோக்கத்தைப்பற்றி பேசியவர்கள் முன்னோர்களாலும், தனிப்பட்ட நபர்களாலும் சரி அல்லது பொது ஸ்தாபனமாக இருந்தாலும் சரி, குறிப்பிட்ட நோக்கங்களுக்காக ஏற்பட்ட அந்த நிதியிலிருந்து செலவழிக்கும்போது தற்காலத்தில் அந்த நோக்கத்திற்கு ஒத்த முறையில் செலவழிக்கப்பட வேண்டுமென்று சொன்னார்கள். இந்தப் பெரியோர்களால் ஒதுக்கப்பட்ட நிதியை அவர்களுடைய நோக்கங்களுக்கு உபயோகிக்க முடியாவிட்டால் காலப் போக்கிற்கு ஏற்ப மக்களை நல்ல வழியில் திருப்ப அவற்றை உபயோகிக்க ஆலோசிக்க வேண்டும். ஆகையால் இன்று பெரியோர்களால் சேர்த்து வைக்கப்பட்ட நிதியிலிருந்து இந்தக் கல்லூரிக்கு நிதி ஒதுக்க ஏற்பாடு செய்யப்போவதாகத் தெரிகிறது. அதாவது இதுகாறும் நாடோடியாகப் போய்க்கோண்டிருந்த யாத்திரிகர்களுக்குகாக இந்தப் பெரியோர்களால் ஒதுக்கப்பட்ட பணமானது கல்வி வசதிக்காக இப்பொழுது செலவழிக்க தீர்மானிக்கப் பட்டுள்ளது. ஏனென்றால் முன்பெல்லாம் அனேகமாக வடக்கே இருந்து பிரயாணிகள் அதிகம் பேர் இங்கு வருவார்கள். அவர்களுடைய உபயோகத்திற்காக இத்தொகைகள் ஒதுக்கப்பட்டன. ஆனால் இப்போது ரயில் வசதியெல்லாம் ஏற்பட்டு அவைகளாலேயே பல வசதிகள் செய்துத் தரப்படுகின்றன. மேலும் பல தனிஸ்தாபனங்களும் இவ்வசதிகளை செய்துத் தருகின்றன. ஆகவே இப்போது இந்த நிதி உபயோகம் இல்லாமல் இருக்கிறது. அப்படி இருக்கும் பணத்தின் உதவியைக் கொண்டு மக்களின் நல் வாழ்விற்காக செலவழிக்கலாம் என்ற ஒரு மனப்பான்மை. இந்த அரசாங்கத்திற்கு ஏற்பட்டிருப்பதை நான் பாராட்டுகிறேன். இப்படிப்பட்ட நிதிகளைத் தவிர வேறு பெரிய பெரிய கோவில்களிலும் பெரியோர்களால் எழுதிவைக்கப் பட்ட அதிகமான சொத்துக்கள் நிறைய இருக்கின்றன. அவைகளையும் இம்மாதிரியான பொதுமக்களுடைய நல்வாழ்வுக்காக உபயோகிப்பதற்கு வழி செய்தால் மிகவும் உபயோகமாக இருக்கும். அம்மாதிரி

தேங்கிக்கிடக்கும் பணங்களையும் இந்நாட்டு மக்களின் கல்வி வளர்ச்சிக்காக அல்லது மருத்துவ வசதிக்காக உபயோகிக்கப்படலாம். இதையே நல்லது என்று மக்கள் எண்ணியிருக்கும் இந்தக் காலத்திலே இம்மாதிரியான பணங்களை மக்களின் நல்வாழ்விற்கு உபயோகப்படுத்தும் அடிப்படையான மனப்பான்மை அரசாங்கத்திற்கு ஏற்பட்டு அதற்கான ஒரு சட்டம் கொண்டு வருவதையும் நான் மிகவும் பாராட்டுகிறேன்.

"இந்த இடத்தில் நமது மதிப்பிற்குறிய பல்கலைக்கழகத் துணை வேந்தர் அவர்கள் சொன்னதைக் குறிப்பிட விரும்புகிறேன். அதாவது **'The District Board alone shall be competent to draw or deal'** என்று ஜில்லா போர்டுகளுக்கு தனி அதிகாரம் கொடுத்திருப்பதை அவர்கள் ஆட்சேபித்தார்கள். அதன்படி மூன்றாவது பிரிவிலே உள்ள இரண்டாவது உட் பிரிவு (a)-ல் **'may contribute from the income'** என்று கூறப்பட்டிருக்கிறது. அதன்படி அவர்கள் கொடுத்தாலும் கொடுக்கலாம், அல்லது கொடுக்காமலேயேயும் இருந்துவிடலாம். அந்த இடம் சந்தேகமாக இருக்கிறது. ஆகவே இப்படி **'may'** என்று போட்டிருப்பது சற்று சந்தேகத்தை தரக்கூடியதாக இருக்கிறது. பிறகு ஜில்லா போர்டு இந்தச் சட்டத்தை வைத்துக்கொண்டு ஜில்லா போர்டில் பிளவு ஏற்பட்டால் ஏதாவது தாவா செய்யலாம் அல்லது அங்கு இருக்கக்கூடிய பெரிய பிரமுகர்கள் சிலர் சேர்ந்து ஏதாவது வழக்கு தொடுப்பதற்கும் இதில் இடம் இருக்கிறது. மருத்துவக் கல்லூரிதான் தேவை. முதலில் அதற்கு நிதி வேண்டும் என்று சொல்லலாம். ஆகவே இந்த கிளர்ச்சியை தடுக்கும் விதத்தில் **may** என்பதை **'shall'** என்று கட்டுப்படுத்த வேண்டு மென்று கேட்டுக்கொள்ளுகிறேன். இல்லா விட்டால் கொடுக்கலாம் அல்லது கொடுக்காமலும் இருந்து விடலாம். இதை அரசாங்கம் ஆலோசனை செய்து, வேண்டிய வழிகளை செய்யவேண்டு மென்று கேட்டுக்கொள்ளுகிறேன்.

"அடுத்ததாக, மக்களுடைய பல நோக்கங்கள் இருக்கும்போது அதை மருத்துவக் கல்லூரிக்காகத்தான் செலவழிக்க வேண்டு மென்று சொல்லப் படுகின்றது. அதற்கும் செலவு செய்யலாம். ஆனால் மருத்துவக் கல்லூரிக்கு வழி செய்ய வேண்டு மானால் ஒரு கோடி ரூபாய் வேண்டு மென்று கனம் ஷெட்டி அவர்கள் சொல்லியிருக்கிறார்கள். ஆகவே ஒரு கோடி ரூபாய் என்றால் ஆரம்பத்தில் இது இலகுவில் முடியாத காரியம். இப்போது முதலில் அங்கு ஒரு சாதாரணக் கல்லூரி ஏற்படுத்துவதற்கு வசதி செய்துத் தரட்டும். ஜில்லா கலெக்டர் அவர்களும், ஜில்லா நீதிபதி அவர்களும், பிற பிரமுகர்களும் சேர்ந்து இதற்கு மனு செய்திருக்கிறார்கள். ஆகவே இந்த உறுதியை மனதில் வைத்துக் கொண்டு பொதுமக்களுக்கு தேவையான கல்லூரி வசதியை முதலில் செய்து கொண்டு பின்னர் மருத்துவக் கல்லூரி வசதிக்கான வழியை செய்யலாம். இம்மாதிரியான காரியங்கள் செய்யும்போது பெரிய பெரிய கோவில்களிலுள்ள நிதியையும் எடுத்துக்கொண்டால் இந்த வசதிகளை யெல்லாம் செய்வதற்கு வசதியாக இருக்கும். உதாரணமாக திருச்செந்தூர் கோவிலுக்கு சுமார் முப்பது லட்சம் ரூபாய்க்குமேல் இருப்பதாகச் சொல்லப்படுகிறது. அப்படி இருக்கு மானால் அதையெல்லாம் எடுத்துக்கொண்டு உதவி செய்வதனால் மருத்துவக் கல்லூரியையும் ஏற்படுத்துவதற்கு வசதியாக இருக்கும். இதை யெல்லாம் ஆலோசிக்க வேண்டுமென்று சொல்லிக்கொண்டு இந்த சட்டத்தின் அடிப்படை நோக்கத்தை நான் வரவேற்கிறேன்."

SRI MOHAMED RAZA KHAN :—" There is not much to say about this Bill. A majority of the members are in favour of this Bill. As I pointed out earlier, the Hon. Minister for Finance is not prepared even to consider a grant of more than Rs. 50,000 or Rs. 75,000 for a first-grade or second-grade college, particularly

when the Hon. Leader of the Opposition insists on certain rules for the starting of a first-grade or second-grade college. I am saying this because on a previous occasion also I drew the attention of the Hon. Minister for Finance that while colleges established a decade or two ago were fortunate enough to get grants of more than Rs. 10 or 15 lakhs, people who have now come forward just to help the Government for the purpose of having higher education are not getting more than Rs. 50,000 or Rs. 75,000. I feel, Sir, that the Hon. Minister for Education who is also the Minister for Finance should consider this question afresh and see whether some increased grant cannot be given to these managing committees, particularly when they have to pay a huge sum by way of deposit and when the University insists on certain conditions being fulfilled with regard to building, playground, etc. This may not be very directly relevant to the subject. But now as we are on the question of starting a new college I felt that I should draw the attention of the Hon. Minister for Education to this aspect of the matter.

"Sir, we should congratulate the people of Tanjore on having a first-grade college in their place. I understand that Tanjore is a very rich district and even in the matter of intelligence it is a very rich district. Most of the people who have played a leading part in the Bar, in the medical profession or in the Legislature come from Tanjore. I think even hon. Members Sri Balasubramanya Ayyar and Sri K. Bhashyam belong to Tanjore. (Interruption.) Coimbatore is going up very well financially, but intellectually Tanjore is good. Whenever a man holds a high position either in the State Government or in the Central Government, people immediately ask the question 'Do you come from Tanjore?' We are all happy that a first-grade college is coming up in Tanjore 12-20 because of the efforts of a few people there. Therefore, I feel that p.m. they deserve all support and help from the Government. No doubt, some suggestion has been made by the hon. Member Sri Balasubramanya Ayyar with regard to grant of scholarship. But it is more for the managing committee than for the Government to consider.

"The hon. Member Sri Purushotham raised the point why the district board should not run this college. If I understand correctly, I think the University always stipulates that the managing committee should be a small body and not an unwieldy one, consisting of forty or fifty members. Further, with our present-day municipalities where there are frequent changes due to changes in politics, it is as good as closing the college if the district board were to be entrusted with the running of the college. I know most of the M.L.As. from Tanjore district have been very anxious and they are very thankful to the Hon. the Minister for Education for bringing in this Bill. Their purpose is that they should have a

first-grade college. Incidentally, the hon. the Leader of the Opposition stated that another college was coming up in the Nilgiris district also. The people of the Nilgiris have been agitating for the opening of a college. I think in the coming year they will have a college. One thing which I may say is that the contribution of the Government in the direction of opening of first-grade and second-grade colleges is not a substantial one. I may bring it to the attention of the hon. Member Sri Bhashyam that but for these private agencies who have in the course of the last ten or twelve years gone from place to place, begged for money and brought in these colleges, the educational position of our State would have been quite different. To quote an instance of the Government's attitude in this matter, what is the present position of the Brennen College, Tellicherry? Repeated requests have been made by the persons concerned saying that the college requires a lot of improvement. But nothing has been done. Therefore, we should congratulate these private bodies on coming forward to start first-grade and second-grade colleges. The Bill only makes a small concession. Because those people are not in a position to collect a sum of Rs. 5 lakhs since they have to find money for putting up buildings and for other equipment, the Government of Madras allow them to utilize Rs. 5 lakhs from the Chattram Fund, for providing a financial guarantee which is a condition precedent to the starting of a first-grade college. Therefore, I wholeheartedly support this measure."

SRI A. GAJAPATHY NAYAGAR :—" கனம் மன்றத் தலைவர் அவர்களே, தஞ்சாவூர் மாவட்டத்தில் உயர்தரக் கல்லூரி இல்லாதது பெரிய குறைவாக இருந்தது, இப்பொது அது ஒரு இழுக்காகவும் ஏற்பட்டு விட்டது. இந்த மசோதாவின்படி அங்கு ஒரு உயர்தரக் கல்லூரி ஏற்படுத்துவது மிகவும் முக்கியமானது. இரண்டாவதாக மாவட்டக் கழகத்திற்கு கல்வியின் அதிகாரத்தை கொடுப்பது அவ்வளவு பொருத்தமாகத் தோன்ற வில்லை. முதலிலே, ஆரம்பக் கல்வியைக்கூட அவர்கள் நடத்தக்கூடாது என்று சொல்லப்பட்டிருக்கிறது. அப்படி இருக்கும்போது கல்லூரியை நிர்வகிக்கும் அதிகாரத்தை இந்த மாவட்ட கழகத்திற்குக் கொடுத்தால் என்ன ஆகும்? ஆகவே இவ்விஷயம் மாவட்டக் கழகத்திற்கு சம்பந்தமில்லாமல் சர்க்காரே பொறுப்பு எடுத்து இதை நடத்த வேண்டியது அவசியம். மூன்ருவதாக கல்லூரியை நிர்வாகம் செய்ய மூன்று நபர்களுக்கும் சம உரிமை கொடுக்கப்பட்டிருக்கிறது. மாவட்டடக் கழகத்திற்கும், பல்கலைகழகத்திற்கும், மற்றும் சில் நபர்களைக் கொண்ட ஒரு கமிட்டிக்கும் நிர்வாகம் கொடுத்திருக்கிறது. அப்படியிருக்க இம் மூன்றிலும் மாவட்டக் கழகத்திற்கு மட்டும் அதிக உரிமை கொடுத்திருப்பது சட்ட விரோதமானது; நியாயம் ஆகாது. ஆகவே இந்த மாவட்டத்திற்கு கொடுக்கப்பட்டுள்ள அதிக உரிமையை கொஞ்சம் தளர்த்தி சம உரிமை வழங்கவேண்டும். அப்போதுதான் ஒழுங்காக கல்லூரி நடைபெறமுடியும். நான் இந்த மசோதாவை மனமார வரவேற்கிறேன்."

THE HON. SRI B. PARAMESWARAN :—" Sir, it is unnecessary for me to repeat what I said at the outset. The hon. the Leader of the Opposition has clearly stated how important and necessary it is for the people of Tanjore to have a first-grade

college. He gave a list of districts wherein there were several colleges and he singled out the Nilgiris and also Tanjore where there was only one college. The people of Tanjore have been agitating for the last half a century for the starting of a college. There are about 57 high schools there. The conditions that existed at the time the endowment was made by the Raja do not exist now for utilizing this Fund. It is not clearly stipulated in the endowment itself that this Fund should be spent for any particular purpose. Further, on account of the progress made in respect of communications, the number of pilgrims who go by carts is not large. Therefore, we can utilize this Fund for starting a college.

"With regard to the point raised by the hon. the Leader of the Opposition 'that the district board alone shall be competent to deal with the interest derived from the investment,' we are all anxious that the college should come up and I do not think that all the three parties on the managing committee could draw cheques. Therefore, it is a matter of convenience that the district board has been asked to be in charge of these transactions and this will not take away the rights or privileges vested in the entire managing committee which consists of these three parties. The Government can go only to the extent of contributing the amount specified in the Bill. If there is any balance that the University may insist upon having, it is for the managing committee and the University to arrange between themselves.

"The hon. Member Sri Balasubramanya Ayyar said that the institutions on which the Fund was spent should not be deprived of the contribution by this diversion. Sir, it is only a financial guarantee that we are giving to the University. After going through the records, I can say that no institution which derives the benefit of this Fund will be deprived of it on account of this diversion.

"This is a very useful and important measure. I am glad the whole House is supporting this Bill unanimously. Whatever may be the minor details that have got to be adjusted between the University and the district board, that can be done. Any impediment placed in the way of carrying out the provisions of the Bill will only delay the coming into existence of the college.

"With regard to the Medical College to which objection has been taken by the Leader of the Opposition, it is for the people of Tanjore to consider. There are very rich mirasdars; they themselves can start a college with the funds available. As suggested by my esteemed Colleague in the other House the other day, the people of Tanjore could constitute a committee, collect funds and start a Medical College for the district.

"I once again thank the Members for supporting this Bill unanimously."

THE HON. SRI C. SUBRAMANIAM :—" Sir, the learned Leader of the Opposition raised a point with regard to the endowment being made in favour of the college and he said that it should be an absolute endowment and that whatever income was derived out of it should go to the college. I accept it in principle. But here is a peculiar situation. The Chattram Fund was being utilized for the running of various institutions. We cannot deprive all those institutions of the contribution and say that the entire income from the endowment should be given over to this college. After all, a 3 per cent return on an endowment is a reasonable one. That is the calculation which, I find, is being made by the University. Therefore, we thought we could give an assurance of an annual contribution of Rs. 15,000 to this college. The rest of the money should be available to the district board to be disposed of as it likes.

12-30 p.m. " That is why we have said that the district board alone shall be competent to draw or deal with the interest derived from the investment. It has to contribute Rs. 15,000 annually and it cannot deal with it in any way it likes. It must draw the interest and utilize it in the way indicated in the Bill. It cannot go beyond what is indicated in the Bill. The district board is only an agent managing the funds. Therefore, as far as the University is concerned, this endowment will be in the name of the University, the district board and the management of the college. Barring the contribution of Rs. 15,000 to be made by the district board, it can deal with the rest of the funds as it likes. If the University feels that some more money should be made available for the running of the college and ensuring its stability, it is open to the University to deal with the management direct and ask it to tap some other endowments so that more money can be made available. But the Government can go only thus far and no further. Taking all these factors into consideration, I do not think there will be any difficulty with regard to the contribution of Rs. 15,000 annually. The Government stand committed to it and this portion of the endowment will be in the name of the University, the district board and the management of the college. I do not think there is likely to be any difficulty in the matter at all."

MR. CHAIRMAN :—" The question is—

' That the Tanjore Chattram Endowments (Utilization) Amendment Bill, 1955 (L.A. Bill No. 10 of 1955), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clauses 2, 3 and 4 were put and carried.

Clause 1 was put and carried.

7th April 1955]

The Preamble was put and carried.

THE HON. SRI B. PARAMESWARAN :—" Sir, I move—

'*That the Tanjore Chattram Endowments (Utilization) Amendment Bill*, 1955 (*L.A. Bill No.* 10 *of* 1955), *as passed by the Assembly, be passed.*' "

MR. CHAIRMAN :—" The question is—

'*That the Madras Court Fees and Suits Valuation Bill,* Amendment Bill, 1955 (L.A. Bill No. 10 of 1955), as passed by the Assembly, be passed.' "

The motion was carried and the Bill was passed.

(4) THE MADRAS COURT FEES AND SUITS VALUATION BILL, 1954 (L.A. BILL NO. 25 OF 1954).

THE HON. SRI C. SUBRAMANIAM :—" Mr. Chairman, I move—

'*That the Madras Court Fees and Suits Valuation Bill,* [a] 1954 (*L.A. Bill No.* 25 *of* 1954), *as passed by the Assembly, be taken into consideration.*'

Sir, this is rather a bulky Bill consisting of many clauses. But the principle involved in it is not very complicated. As a matter of fact, the law relating to suits valuation and court fees is contained in the Acts of 1870 and 1877. They are very old Acts and of course many amendments have been made to them from time to time. But these amendments have made the law more complicated to a certain extent and it has not been possible to bring the law up-to-date. That is why this matter has been under the consideration of the Government for a very long time and now we have taken steps to bring the Suits Valuation Act and the Court Fees Act into one enactment and place this Bill before this House.

" Sir, this Bill was considered by a Select Committee and hon. Members of this House were also associated with it. Very useful suggestions were made in the course of discussion of the Bill in the Select Committee and we have also incorporated some of the changes suggested by the Select Committee. The Legislative Assembly also have made certain changes in the Bill. An important feature of the Bill is the general revision of the court fees payable. For example, the *ad valorem* fee payable on the value of the suits up to one thousand rupees was formerly 11¼ per cent; then up to 5,000 rupees it was 7½ per cent. Beyond 5,000 rupees, the fee was worked out at reduced rates. Now what we have done is we have adopted a uniform rate of 7½ per cent for all suits. The result will be the lower category of suits will have some benefit up to Rs. 5,000. Of course, in respect of suits of the value of over Rs. 5,000, the fee payable will be a little more.

[a] Printed as Appendix V on pages 990–1031 infra.

" Then, another difficulty which was felt and which created some complication also was with reference to valuation of lands, particularly agricultural lands, for the purpose of determining the jurisdictional value and also the court fee payable. This point has always been contended in the various cases before the High Court and Tribunals. We have now tried to simplify the procedure. Formerly there was this anomaly. If a person had to sue for possession in respect of an entire estate or land which had a separate patta number, it was enough if he paid court fee on ten times the land revenue assessment. But if it was part of the land, he had to value the suit on the basis of the market value of the land. In consequence, the court fee payable in the case of a suit for possession of the entire land was much less than that payable when one sued for possession of a portion of the land. We have now tried to remove this anomaly. In doing so, we have also considered the question what should be the value for the purpose of determining the court fee and jurisdiction in respect of such lands. Formerly, it was ten times the land revenue assessment. It was fixed with reference to conditions prevailing in those days. Since then, the value of land has gone up considerably. Except agricultural lands, in respect of every property, movable and immovable, it is only the market value of the property that governs the valuation of the suit for the purpose of determining the jurisdiction and also the court fee. In respect of lands, the notional value of ten times the land revenue assessment was being adopted. It was originally intended to have the market value as the basis even in respect of lands. The suggestion was made that land was as good as any other property. But at the Select Committee stage, it was said that that formula might lead to great hardship. It was found on a rough analysis that the market values of agricultural lands varied from 90 to 396 times of the land revenue assessment. It was found the value varied from place to place. Therefore, the Members of the Select Committee stressed that instead of having ten times the land revenue assessment, we could have some other multiple. It was accordingly decided to provide for thirty times the assessment for the purpose of determining the court fee payable and also the jurisdiction. With this, a great controversy was set at rest.

" Another change made in the Bill is this. In computing the value of the suit for the purpose of deciding the jurisdiction and court fee, the real nature of the suits will be taken into consideration. As the provisions are at present, it is possible for a very clever lawyer to draft the plaint in such a way as to make the suit fall under some other provision than the one under which it ought to come and thus escape with a lesser court fee. But the real nature of the suit in any event will have to be gone into after the defendant files his written statement and issues have been framed. Now, we have provided that whatever the allegations in the plaint, if after the filing of the written statement and at the time of the framing of issues it is really found that as a matter of fact it involves certain

other points which have to be gone into, the court fee payable should be on that basis. That is the broad principle and various provisions have been made with this principle as the guiding factor. The fundamental thing is court fee has to be paid on the real nature of the suit and not with reference to the pleading of a clever lawyer. If this principle is understood, then all other provisions will not only be intelligible but acceptable also to hon. Members. That is one departure we have made here. We have increased the court fee payable on certain petitions and vakalats incidentally; because the money value has gone down, we are not taking that into account in its entirety and we are not increasing the court fees in all cases. But we are making small increases only here and there. One other criticism, I have to answer, is that we are trying to make money out of litigation. It is a charge which has been made not now but it has been there even during the Advisers' Regime. In 1941 when the Advisers' Regime was there, certain persons raised the issue that much money was being made by Government out of litigation. An elaborate enquiry was made. Ultimately it was found that the general revenues were paying for the maintenance of justice. Litigation was being subsidised to a great extent. Even now it is so. I have got the figures. If any hon. Member is interested in it, I shall quote the figures. I have the figures for last year. So far as last year was concerned, we had a deficit of nearly Rs. 57 lakhs under 'Administration of Justice.' But conditions are likely to improve because of the cancellation of the Moratorium Act now. To that extent we may be getting Rs. 25 lakhs. But still the wide gap of Rs. 30 lakhs as between the receipts and expenditure on 'Administration of Justice' remains. I am not taking into account the money spent on maintaining prisons, which form part and which come under the category of Administration of Justice. I am not taking that into account now. I am only taking into account the Administration of Justice as such. Even now we have a gap of Rs. 30 lakhs. We may be getting only about six or seven lakhs of rupees by this Court Fees Bill. (Sri K. Bhashyam : 'How much would Government get by this Bill?') Six or seven lakhs of rupees. Therefore the charge that we are making a profit out of litigation and Administration of Justice is one, which if I may use an un-offending language, is ill-informed. I do hope that hon. Members would take into consideration this Bill and if during the clause-by-clause consideration of this Bill, some points are made out, I will reply to those criticisms." 12-40 p.m.

MR. CHAIRMAN :—" Motion moved—

'That the Madras Court Fees and Suits Valuation Bill, 1954 (L.A. Bill No. 25 of 1954), as passed by the Assembly, be taken into consideration.' "

* SRI K. BHASHYAM :—" Sir, the revision of court fees has been there for some years before Government. I myself had on more than one occasion demanded on the floor of the House that there should be a revision of the Court Fees Act because it was in

some places illogical and certain ambiguities also had to be removed. I have been asking for the introduction of necessary legislation to remove those defects. But I never expected this Bill, which has come as a surprise to me. I think I had invited a monster when I asked for a Bill revising the Court Fees Act. When I was in charge of Law, there was one report by Mr. S. Satyamurthy, the then Registrar of High Court, (a big volume) containing suggestions for amending the Court Fees Act. There are many notes which I have made on those suggestions.

"What is the real principle on which court fees are levied? I do not think it is a tax. Everybody is agreed it is not a tax. A service is rendered by Government. Is that service to be paid for at all? The view is held by Judges who administer Justice that court fee should not be levied. It is the general revenue that ought to contribute to this administration of Justice. After all administration of Justice is one of the functions of Government."

THE HON. SRI C. SUBRAMANIAM :—"Which is not the function of Government then? Nobody should pay tax and Government should render all service. Is that the hon. Member's view?"

* SRI K. BHASHYAM :—"I am suggesting the principle existing in fairly civilised Governments. If Government really want money, there are other ways of getting money. Government are in charge of keeping law and order because of their duty and responsibility of running the administration in a proper manner. Again the subject of 'Police' comes under Government control. Do they take anything like Police fee from the people because they maintain law and order by keeping the Police? No, they don't; because it is the duty of Government to ensure the security of property which a citizen owns."

THE HON. SRI C. SUBRAMANIAM :—"May I point out as far as criminal justice is concerned, we do not charge any fee for taking the complaint or for carrying on with the prosecution of the case? As a matter of fact Government bear the entire expenses as far as these cases are concerned. But with reference to establishment of individual rights we have to consider whether that concerned person should pay (no doubt the wrong-doer is asked to pay the cost) or the general community should bear the expenses for establishing individual rights. That is a point on which we are prepared to be advised by the hon. Member. But he need not make a general charge or create an impression that in respect of criminal justice, we are charging in each and every case. It is not so. It is only in civil litigation we come in."

* SRI K. BHASHYAM :—"Unfortunately the Hon. Law Minister is in a hasty mood. I was just about to draw the distinction between civil and criminal litigation, when I had been interrupted by the Hon. Minister. My argument is this. Government are bound to keep law and order in the State. It is correct. Law and order concern two subjects. The first is that persons should feel

secure of their properties. They should not be unlawfully deprived of their properties. Cheating is a crime. But even here questions arise whether the unlawful deprivation of property comes under civil or criminal litigation. Suppose a man steals away my property and I had been deprived of my property. Does it come under the civil or criminal head? Most of these criminal cases, if one were to examine the documents and the relevant files, relate to land, money and women. Persons are deprived of their properties and in some cases 'woman' is involved. That is why I say if we check up civil litigation, we will notice that there is not a plethora of criminal cases. Most of these criminal cases start as civil cases and then develop into criminal ones. Two brothers are there. Suppose they own a land jointly. Dispute arises with regard to the land when it is partitioned. Civil litigation is there. If one party is aggrieved, the two come to blows and the case develops into a criminal one. Therefore civil litigation is . . ."

THE HON. SRI C. SUBRAMANIAM :—" I thought disputes arose after the litigation was over. After an adjudication has been made, and a decree is passed and if the concerned party goes to execute the decree and take possession of the property, then the dispute arises. It is not a question of abolition of private property. If the hon. Member wants abolition of all private property as such, then what he says may be the case."

* SRI K. BHASHYAM :—" My thread of argument has been interrupted, Sir. This sort of argument and counter-argument, I am afraid, may not be helpful. Section 140 of the Criminal Procedure Code is specific. Some order is passed by a Magistrate. When the order has been made absolute, the Magistrate shall give notice of the same to the person against whom the order was made and further require him to perform the act directed by the order within a time to be fixed in the notice. In case of disobedience of the order of the Magistrate, a penalty is levied. This is a criminal case. But to establish their rights, the parties go to the civil courts. That is why I say in civil courts these cases are brought. Even though deprivation of property by unlawful means may come under the category of 'criminal' to establish their title to the property, the parties go to the civil courts. Therefore I say that criminal litigation is not different altogether. To say that in civil litigation only two parties quarrel with each other and that therefore in civil litigation alone, they could be asked to pay court fees, is wrong. It is a wrong principle altogether. Only as a result of disputes arising in respect of right to properties, a large number of criminal cases come up. That has been my experience. It has also been the experience of others. Even High Court Judges have expressed this opinion. As a matter of fact, they have said that all trouble arises over civil right to properties. So, the Government cannot simply wash off their hands so far as civil litigation is concerned 12-50 p.m.

and they cannot ask the persons concerned to bear all the expenditure. It is really part of the duty of the Government to maintain law and order. There is no point in making a distinction between civil and criminal litigation.

" Sir, it may be said that this is only the service rendered. The Government want the people concerned to pay for the service rendered. Of course, the Government provide the machinery for deciding the cases as between the parties. Even in regard to this matter, I would like to know whether the amounts that the people are asked to pay will be commensurate with the value of the service rendered. In the first instance, I say that the service must be rendered free. If it is maintained that the persons concerned must be charged something, I would like to point out that they should not be asked to bear the entire burden. The stand taken by the Government in this matter is not quite correct. I shall prove this by explaining what is being done now. I have certain figures from the budget. Under ' Administration of Justice ', receipts from court-fees is given as Rs. 91½ lakhs. The Demand under Administration of Civil Courts has been for about Rs. 1,27,00,000 and that for criminal courts alone has been put as Rs. 36 lakhs. There is the difference of about Rs. 91 lakhs left. I am giving these figures from the budget. Therefore the Government are recovering all the expenses incurred."

THE HON. SRI C. SUBRAMANIAM :—" Sir, the hon. Member's figures are rather misleading. A particular method of accounting has been adopted. Under the head, ' Administration of Justice ', certain items of expenditure, like maintenance of court buildings and things like that are taken into account. There are also repairs to buildings under civil works. A certain portion of the expenditure incurred under these heads will have to be allotted for purposes of accounting under certain other heads. For the purpose of convenience, we have adopted this procedure of including certain items under certain heads. We have to take all these factors into account before we analyse the figures."

* SRI K. BHASHYAM :—" Sir, I take the information from the Hon. Minister that repairs to buildings and other matters have to be taken into account. I wish to point out as against this in this connexion that from the sale of non-judicial stamps the Government get a sum of about Rs. 2,28.00,000. Is this to be taken as part of the expenditure under ' Administration of Justice ' or not? After all, why are the Government insisting on affixing these stamps and registration? It is for the purpose of ensuring the civil right and title of the person concerned to the property. It is not as if these things stand by themselves. I would request the Hon. Minister to take the income from these heads also into account."

THE HON. SRI C. SUBRAMANIAM :—" If the hon. Member is here till the end, he will hear me explain the position and answer

his points. But, unfortunately, he will not remain till the end and he will go away after making his speech. That is why I have to interrupt him"

* SRI K. BHASHYAM :—" Sir, I will be here to hear his reply."

THE HON. SRI C. SUBRAMANIAM :—" In that case, it is all right. I will reply to all the points raised by the hon. Member in the end."

* SRI K. BHASHYAM :—" If the Hon. Minister can let me know when he is going to reply, I will certainly be here and listen to his reply. As I have already arranged for some other business, if he could tell me when he is going to reply, I will stay here. There is no doubt about that, Sir.

" I only wish to point out that even the money derived by the Government by the sale of non-judicial stamps must be taken into consideration as revenue under the head 'Administration of Justice'."

THE HON. SRI C. SUBRAMANIAM :—" Why not land revenue also? "

* SRI K. BHASHYAM :—" The Hon. Minister says, 'why not land revenue also?' I ask, 'why not excise also?' Sir, it is not a question of 'why not?' It is a question of 'why is it?' He must give the reason why the revenue from the sale of non-judicial stamps should not be taken into account. The very reason for the Government's insisting on the affixing of these stamps and also registration is for the purpose of ensuring the civil title of the persons to various properties concerned. It is for this purpose, these stamps, etc., are used. The Hon. Minister asks, 'why not land revenue also?' If he wants to include land revenue also, he may do so. I have no objection. 'Administration of Justice' is something different. That is not the way of answering my point, Sir. He has not met my argument. I request him to consider this aspect of the matter also and give me a satisfactory reply. It has been stated that the sum of Rs. 91 lakhs does not include repairs to buildings . . ."

THE HON. SRI C. SUBRAMANIAM :—" Sir, I wish to interrupt the hon. Member and give figures relating to certain items so that he may have information about the real position. The share of general Administration of Justice under the head 'Stationery supplied to the Judiciary' is Rs. 13,58,125, under the head 'Printing' it is about Rs. 10 lakhs, under 'pensionary charges' it comes to about Rs. 22 lakhs and for minor works and repairs to the High Court, it comes to about Rs. 5 lakhs. All these would come to about Rs. 50 lakhs."

* SRI K. BHASHYAM :—" Sir, I am glad the Hon. Minister has furnished these figures. I will go through the figures and continue my speech in the afternoon. It is now 1 o'clock. So we may adjourn now."

MR. CHAIRMAN :—" All right. The House will now rise for lunch and meet again at 2-30 p.m."

The House then rose for lunch.

(After lunch—2-30 p.m.)

III.—ANNOUNCEMENT BY THE HON. CHAIRMAN.

ACT ASSENTED TO BY THE GOVERNOR.

MR. CHAIRMAN :—" I have to announce to the House that the Madras General Sales Tax (Amendment) Bill, 1955 (L.A. Bill No. 4 of 1955), which was passed by the Madras Legislature on the 18th March 1955, received the assent of the Governor on the 31st March 1955 and has been published as Act No. VIII of 1955, in Part IV-B of the *Fort St. George Gazette*, dated 6th April 1955."

II.—GOVERNMENT BILLS—*cont.*

(4) THE MADRAS COURT-FEES AND SUITS VALUATION BILL, 1954 (L.A. BILL NO. 25 OF 1954)— *cont.*

* SRI K. BHASHYAM :—" Mr. Chairman, Sir, I was dealing with the question of expenditure on this administration of justice as disclosed in the budget. But I am countered by the Hon. Minister by pointing out that ' the Budget does not really represent the expenses incurred on account of the administration of justice. There are certain other items that will have to be taken into account.' I was given three sheets of papers from which I have gathered this information. Receipts by way of court-fees and others come to about Rs. 1,41,61,000. What is said as expended on administration of justice comes to Rs. 1,89,78,000 and odd. Therefore it has been pointed out that there is a deficit of about Rs. 48 lakhs or Rs. 47 lakhs. This Rs. 1,89,00,000 and odd included 10 per cent spent on general administrative charges, and taken as share of ' Administration of Justice '. This is nearly Rs. 20 lakhs. I submit that sort of item is wholly inadmissible for the purpose of calculating the amount spent for administration of justice. For one thing the general administration charges have been paid for by persons who resort to courts and if the Government debit it again to administration of justice, it would amount to debiting them twice over. We have paid the money for the purpose of general administration and got the benefit out of it. But again to take away 10 per cent of that and debiting it to administration of justice, I cannot understand as the proper sort of calculating the expenditure under administration of justice. Then, Rs. 20,00,000 have been debited to administration of justice on a 10 per cent basis. I take it that

about Rs. 2 crores ought to have been spent on the general administration. How was this amount taken into account? Of the three crores and odd of people, if only 10 per cent resorted to the courts, then the number of litigants would be about 30 lakhs. Is that the assumption on which it is based? I do not understand on what other principle this figure could have been adopted. No such huge number of persons go to courts. If at all only ½ per cent of the general administration charges should be debited to administration of justice. I submit 10 per cent is too high a figure and wholly inadmissible. So far as stationery and printing charges are concerned, that too has been calculated on a 10 per cent basis."

THE HON. SRI C. SUBRAMANIAM :—" Only actuals are charged to administration of justice."

* SRI K. BHASHYAM :—" Then I leave it at that. Another item debited to administration of justice is ' Civil courts buildings, interest on capital cost, maintenance and repairs ', etc. The amount debited is Rs. 5 lakhs. I submit, Sir, the buildings have been there for quite a good long time. To say : ' Interest on capital cost ', is it at the time the building was constructed or now? I do not see how it can be taken as money actually spent. It is not money spent out of our pockets. It is only an imaginary capital and interest paid on these and debited to administration of justice is not also amount paid out of our pockets. Therefore, these amounts also should go. They should not be debited to administration of justice.

" If these amounts are taken away, so far as I am able to see, the deficit will be only Rs. 25 to Rs. 30 lakhs in respect of administration of justice. As regards the pension of judicial officers, I have nothing to say. From my point of view, there is only a deficit of Rs. 17 lakhs and for the efficient administration of justice, this is not too much for the Government to contribute. There is no point in saying that ' there is no case for increasing the general taxation. We have only to increase the court-fee to meet the deficit '. I submit I have made out a case to my satisfaction—of course Government may not be convinced about my case but so far as the general public are concerned, they will be satisfied—that there is no need to increase the court-fees at all. The items that are now charged from other heads to the administration of justice are not generally thought of in respect of this mater. But Government want to charge them to administration of justice. Even taking them under administration of justice, the deficit will not be more than 20 to 30 lakhs of rupees. That is not too much for the Government to pay for the efficient administration of civil justice.

" In respect of this Bill, there is also one more thing to consider. In the calculation of the amount expended for administration of justice, the salary of the Sessions Judges and Assistant Sessions Judges is also taken into account. They are doing a lot of criminal work. They do not do much of civil work. All the year round or in

almost all months they take up only sessions work. Therefore the entire amount should be charged to the criminal side and not to the civil side. If that is done, about 2 to 3 lakhs will go. Therefore to say 'we are spending more on the administration of justice' by producing figures regarding expenditure which are not generally admissible, is not a good argument for raising the court-fees. This is so far as the expenditure and receipts under administration of justice are concerned.

"If the Government want that the services must be adequately paid for, we cannot really ask one man to pay for the services really obtained by another. A case might be disposed of very soon, another might take two days or three days and so on, but still pays the same money—then in that case, the principle the Government should adopt would be to levy a small token fee on the plaint and also charge a sort of hearing fee for every day till

2-40 p.m. the case is heard and disposed of. This is the principle adopted in England. That is the principle which has been adopted in the Original Side of the High Court till recently. So much so a person whose case is pending for a long time, has to pay a higher fee. A person whose case is disposed of quickly has to pay a less fee. This principle has already been adumbrated even before the Select Committee which considered this Bill and two hon. Gentlemen, in their dissenting minutes, pointed out that, that was the proper principle. But the Hon. Minister thought that, that would work as a hardship upon the poor people. I do not know how it is so. The court-fee should be charged on the basis of the service rendered by the Judge. It should be based on the work done by the Judge in respect of a particular case of a particular litigant.

"Then I come to the uniform rate of *ad valorem* court-fee payable upon every suit. What will happen if a flat rate is adopted? It may not affect small litigants very much and they may gain some advantage, but it will affect big litigants. Originally no court-fee beyond Rs. 3,000 was paid for any class of suits. Rs. 3,000 was the maximum amount that was paid. If we levy a rate of 7½ per cent *ad valorem* on all kinds of suits, it will be oppressive and will work as a great hardship upon big litigants. For instance, a big zamindar who has been dispossessed of his landed property might not be able to file a suit and even if he files it, he will ultimately become a pauper. Therefore, I should say that this 7½ per cent *ad valorem* is not in the interest of the client nor it is in the interest of the Government itself from the financial point of view.

"The other question is how the *ad valorem* fee is to be calculated, in respect of the agricultural land. What is called 'market value' is prescribed for this purpose. Originally the market value was fixed as ten times the revenue assessment payable on the land. Now from ten times the revenue assessment it has been raised to thirty times the assessment on the ground that the value of the land has gone up, and therefore, one has naturally to pay a higher court-fee. My submission is that simply because the value of the

land is supposed to have gone up, the court-fee also has to be raised. It is a wrong principle and the raising of the court-fee from ten times to thirty times is a big jump. It would be better if we really go slow in respect of this matter. It was suggested in the other House and also in the Select Committee that it should be a smaller figure. I do not want to dilate on this point still further.

" Sir, the fixing of court-fees for suits is a very difficult matter. Certain suits come within a particular section of an Act or another section and it is a very difficult question to decide it. After all, the whole question depends upon the wording of a particular section and generally we the lawyers always quarrel over the wording of the section. If a person wants to file a suit and if he is asked to pay Rs. 10,000 as court-fee in the very first instance, he may not file it. Once he is assured of the services of a lawyer and the Court also permits him to pay only Rs. 10,000 in the first instance, he will be encouraged to file the suit and fight for his rights. What happens in the present Bill is this. Apart from the first Court deciding whether the court-fee payable is proper or not, a review can be made of the court-fee on an objection by the defendant. A further review can be made when the matter is again raised by an additional defendant. Then what happens is this. The matter may go on appeal to the High Court and the question whether proper court-fee has not been paid in the first case again may be considered. Besides the High Court has been given power to appoint a Court Fee Examiner who has to visit all the Courts in this State and find out whether a particular person has paid the right fee or not."

THE HON. SRI C. SUBRAMANIAM :—" That is in vogue."

* SRI K. BHASHYAM :—" I know that it is not in vogue and it is rarely resorted to.

" A person who has filed a plaint with a court-fee of Rs. 20 or Rs. 30 will be asked to pay another Rs. 100 by way of court-fee if it comes under some other section. It will work as a hardship if that person is asked to pay it again. Once a responsible officer—it does not matter whoever he is—decides the amount of court-fee payable for a particular suit, it must be considered as settled for all time and should not be raked up again. Otherwise, the litigant who goes to the court to fight for his rights will be harassed unnecessarily at every stage. All the time he should not be asked to pay more court-fee. This thing should not be there, because every time he will be having a feeling or an apprehension that he will be asked to pay additional court-fee at one stage or another. I hope the Government will look into that aspect of the matter.

" Then, Sir, a new principle has been introduced which was not there before. A plaint has to bear a court-fee stamp according to the allegations mentioned in the plaint and once he has filed it, his business is over. Now a new principle has been added that if in a written statement any additional matter regarding title, etc., is raised, a further court-fee has to be paid. That is a thing which is somewhat new. To say that the plaintiff should pay additional 2-50 p.m.

court-fees on the allegations contained in the written statement is a thing which has not been accepted so far. Suppose a man sues upon a document of title. After all it is a paper and it may be worth Rs. 100 in value. Suppose the defendant comes and says that the lands which are represented by the document of title belong to him. As soon as he says that, an issue is framed in respect of that matter. Then court-fee should be paid by the plaintiff not upon Rs. 100, but upon the market value of the land. This will cause great hardship. There is uncertainty with regard to litigation, uncertainty with regard to court-fees and there is again uncertainty as regards the framing of the issue. Such things are found in more than one place in this Bill. Of course, we are all anxious to help the poor man. This is not in his interest.

" So far as declaratory suits in respect of land are concerned, the minimum court-fee payable is Rs. 22-8-0. No man can walk into a court of law and file a suit in respect of any agricultural land saying that it belongs to him and that he is entitled to possession of it unless he pays Rs. 22-8-0, even though the land may be half a cent or one cent in extent and not worth Rs. 10. That is the minimum fee which has been provided for. Such a minimum has been provided for in the case of suits relating to easements also. In respect of suits relating to trust property, the minimum court-fee payable is Rs. 75 and the maximum is Rs. 200. After all it may be a small trust relating to some Pillayar temple and the market value of trust property may be worth Rs. 100. Still one must pay Rs. 75 as court-fee. Again in respect of suits for injunction and suits coming under the Specific Relief Act, a minimum fee has been provided. I feel that such minimum rates ought not to be there and they will cause considerable hardship to the poor client. Therefore, these minimum rates must go.

" Another matter I wish to speak about is regarding the drafting. Of course, the market value is there and it has been defined as thirty times the assessment and all that. I would like to invite the attention of the House to clause 40 which relates to suits for cancellation of decrees. The clause says ' In a suit for cancellation of a decree for money or other property having a money value, or other document which purports or operates to create, declare, assign limit or extinguish, whether in present or in future, any right, title or interest in money, movable or immovable property, fee shall be computed on the value of the subject-matter of the suit '. I would like to know whether it is the market value which is stated, or whether it is the market value according to the notional value prescribed in the Act. One would like to know what is meant by ' the value of the subject-matter of the suit '. There is some ambiguity and this requires clarification. Otherwise, it will be difficult to decide the question. (The Hon. Sri C. Subramaniam : ' Clause 7 deals with it.') Clause 7 only deals with the determination of market value. In respect of agricultural land, it will be thirty times the assessment. In respect of a building, it will mean market

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value in the ordinary sense. But there the question of market value in the case of suits for cancellation of decrees has not been dealt with. So it requires some clarification.

"Again in respect of suits under the Madras Survey and Boundaries Act, it is stated that the fee shall be computed on one-half of the market value of the property affected by the determination of the boundary or on rupees three hundred, whichever is higher. Fee computed on half the market value is provided for, for rectifying a thing for which the survey officer is responsible. It was only Rs. 10 in those days. This will also create hardship. I have not gone through all the clauses but as each clause is being taken up for discussion, I can point out such anomalies. Of course, it is not possible nor profitable to do so. On principle, there seems to be no ryhme or reason in respect of several matters. There is no necessity for such a Bill. If the Government are merely content with levelling up inequalities and removing ambiguities, then it will be all right. But they have sought to change the principle of taxation thoroughly. Therefore, I consider that this is an ill-advised measure."

SRI A. GAJAPATHY NAYAGAR :—" Mr. Chairman, Sir, the question of deciding the court-fee has always been a nightmare for Judges because there is nothing definite about it. But on broad general principles we adopted three notions, the assessment value, the market value and the notional value. I submit that court-fee matters can easily fall under any one of these three heads and, therefore, there will be no difficulty in computing the fee payable as per the provisions of this Bill. They have done one good thing. They have adopted a uniform rate in respect of *ad valorem* fees. They have also clarified the meaning of the expression 'market value'. Of course, in the matter of assessment of court-fee, each individual case has to be assessed on its own merits. We cannot say generally that court-fee can be decided at one stroke. We may have one kind of court-fee prescribed and one value prescribed for all cases. But if you want to do justice, you must have these three heads, viz., assessment value, market value and notional value.

"I would like to say one thing. The matter has been discussed at the Select Committee proceedings and we adopted one principle, viz., that the expenditure incurred on account of courts shall be commensurate with the income we get from the litigants. After all, litigation has become a luxury in certain cases. There must be one principle, which I submitted before the Select Committee also, namely, that the litigant who wants justice must pay for it. At the same time, I do not want to say that the suggestions put forward by my hon. Friend Sri K. Bhashyam should be lost sight of. Administration of justice is also a duty of the State. The Government have made ample provision for dispensation of justice on the criminal side, but when a man wants to enforce certain rights on the civil side and wants to take away public time and money, I say that he should pay for it. At the same time, I should say that we have made sufficient safeguards in the various provisions

of the Bill that a man is not taxed more than what he has to pay for. Therefore I should say that this measure of taxation is quite reasonable and I welcome it."

3 p.m. * Sri V. GURUNANDAN ROW :—" Mr. Chairman, Sir, I rise to oppose this Bill. I agree with what my hon. Friend Sri K. Bhashyam has said. He has dealt with almost all matters, but I would like to deal with only three or four aspects of the Bill with particular reference to the question of principle. Sir, the Government are aware that the Hindu Religious Endowments Act was declared *ultra vires* by the High Court as well as by the Supreme Court. They pointed out that there was a difference between a fee and a tax. The sum and substance of their judgment was that the money that the Government collected for services to be rendered, could not go to the general funds and that the fee that was collected should have some co-relation to the services rendered whether compulsorily or otherwise. That was the main reason why the levy made upon the religious endowments was held to be *ultra vires*. The Hon. the Minister for Law has brought forward certain figures to show that about Rs. 19 lakhs is taken to be the charges of general administration. As far as civil litigation is concerned, what is happening is this. The figures given in the Budget show that all the court-fees paid go into the Consolidated Fund and it has nothing to do with civil litigation. I do not see any relation between the value of the subject-matter of a suit and the services the Government are rendering to a litigant who goes to a court. I support the plea made by my hon. Friend Sri K. Bhashyam that a fixed fee must be charged for every person who goes to a court. The Government may have different rates of court-fee on the basis whether a case is tried in the District Munsif's Court or in the Sub-Court or in the District Court. But there must be a fixed fee. This will completely obviate much litigation on what is the correct court-fee to be charged in a particular case. This will also save a lot of time of the Court in deciding whether the court-fee paid in a case is correct or not. The work in the courts will be simplified to a great extent. But, as my hon. Friend Sri K. Bhashyam has pointed out, a lot of complication is being created as a result of the provisions introduced in the new Bill and the question of what court-fee has to be paid has become a matter of interest not only to the plaintiff, but also to the defendant. As a result of passing this measure, litigation will be encouraged. There is no attempt at simplification of procedure at all. It is stated that this Bill has been brought forward to remove anomalies. On the other hand, I find that it has removed no anomalies at all. It has created so much complications that no lawyer will be in a position to say what is the proper court-fee to be paid in a case. It is stated that court-fee will be assessed on market value. Sir, market value may change. An enquiry has to be made as to what is the market value and this will take a lot of time. The court is being converted into a sort of tax office. It has to sit, watch and see whether proper court-fees have been charged or not.

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"Then, Sir, I come to criminal litigation. Criminal litigation is not a luxury. It is for the general interest and maintenance of law and order and to see that crime is put down, that the Government bring the accused before criminal courts. It has been provided in the Constitution itself that the opportunity given to accused persons must not be restricted in any way. They must not be compelled to pay court-fees for getting copies of deposition, etc. For the purpose of enabling them to defend themselves it is necessary that they should get free, or at least at a nominal cost copies of documents, etc. To-day, an accused has to pay five annas per page for a copy of a document. Can that not be removed? After all, only a sum of Rs. 5 lakhs is collected by way of such collections. I do not see any reason why the Government should not forego that amount. The Hon. Minister must know that most of the accused cannot afford to pay. So far as criminal cases are concerned, the accused are entitled to get all copies of documents free of charge.

"Then, Sir, I shall come to the fees charged for filing writ petitions. Originally, the Government stated in the Bill that a fee of Rs. 100 was to be charged on each petition to the High Court under Article 226 of the Constitution for a writ other than the writ of habeas corpus or a petition under Article 227 of the Constitution. At a Joint Select Committee stage, this fee was reduced to Rs. 25. When the Constitution came into force, only a fee of Rs. 2 was charged for a writ petition in the High Court. I know the Hon. Minister might say that as a result of the fee being very low a large number of writ petitions were filed. But I must bring to the notice of the Hon. Minister also that a number of writs were granted against the Government also. We cannot say that every writ petition is a frivolous one. I am concerned with the fundamental rights of the ordinary people and I am not concerned with the fundamental rights of propertied people. To-day they are making people to pay Rs. 25 for every writ petition filed in the High Court. To-morrow they may come forward with a measure before this House that one lakh of rupees should be paid as the court-fee for each writ petition. Rs. 25 means, according to our Indian standards, one month's earning. Is that a reasonable fee charged for the enforcement of the fundamental right guaranteed under the Constitution? I, 3-10
therefore, suggest that the Government should go back to the p.m.
original rate of Rs. 2 which is nominal. It is just a nominal fee to enter the court. I submit that Rs. 2 would be a proper court-fee on a writ petition and that Rs. 25 is certainly too large a sum for the ordinary man to pay.

"The only other point I would like to mention is this. What is the objection of the Government to have the court-fee based upon the actual time taken by the court? I do not think it can have any effect on the budgetary situation. As my hon. Friend Sri K. Bhashyam stated in England there is only fixed court-fee. Even to-day in Bombay in the Original Side of the High Court only Rs. 25

has to be paid for every plaint. Is it found in any way that the Bombay Government are losing any money by levying only Rs. 25? What is the objection for levying the same rate here? If I take the time of the court, I pay for it and to enter into a court I pay something depending upon a particular court. The Bill contains so many complicated clauses. According to the statement shown to me by the Hon. Minister, after all they expect to get only Rs. 8 lakhs out of the court-fees by this Bill. I think even that will have to be reduced. Because, previously in the Small Causes Court they used to levy 2 annas for the first Rs. 500 and thereafter one anna and now it has been made a flat rate of 7½ per cent. So, Government may lose something there. This Bill is raising a lot of difficulty. I am afraid, Sir, that some person with a big claim will come and say that it is unreasonable. Every lawyer of the Madras Bar Federation has opposed this Bill tooth and nail. They have told the Select Committee also that they are opposing the Bill on the basis of the principle followed and not because they are lawyers. They said that court-fee should be based upon the time taken by the court. With these words, I oppose the Bill."

SRI K. BALASUBRAMANYA AYYAR :—'Having heard all the speeches of the hon. Members, I have to take a somewhat different line. Unfortunately the court-fee is a very difficult matter. The various principles upon which court-fee has to be levied have been discussed by the High Courts in our country and they have not come to any uniform decision on the particular matter. Long ago, the Privy Council said that court-fee legislation is after all a revenue bringing legislation. We must remember that in England in the beginning there was no institution fee at all. Here also when the Supreme Court was in Madras, there was no institution fee at all. The principle followed was that no court-fee should be levied for any litigation, civil or criminal. It is a general principle and any amount of deficit on the administration of justice does not matter at all. Therefore, they said that no court-fee at all should be levied. But unfortunately in this country in the year 1870 Henry Main who was one of the great Jurists introduced this legislation and in that he began to say that court-fee should be levied on market value in some cases, by assessment in some cases and so on. He said that peculiar conditions of this country necessitated the levy of court-fee. Unfortunately, Sir, we are now not writing on a clean slate. It would be well if some of those general principles are adopted now. But, after the Act of 1870, is it possible for us to go back? At any rate, the Government will not go back upon it. That is the difficulty which I feel and therefore, it is that we cannot press this matter too far, though it is logical. There are also certain other principles which have been accepted and everything has to be taken together for the purpose of deciding this matter. One principle alone cannot be pressed too far. The time taken by the courts has also to be taken into account. For example, in the Presidency Small Cause Courts Act, it is stated that if there is a settlement out of court, half the court-fee should be refunded. That is on the

principle that more time is not taken when a matter is settled out of court. In cases where an *ex parte* decree is passed, there is not much of argument and the suit is decided immediately. In that case there may be a refund of half the court-fee. So, the principle of time taken by the court can be applied to some extent. But other things also should be taken into consideration.

" The State should never benefit by taxing one class of people, i.e., litigants. Sir Henry Main when introducing the Court Fees Act stated that it was not the intention of the State to benefit by taxing one class of people, viz., the litigants. Of course, it is not stated here that the Government want to benefit by taxing the litigants and I do not say so.

" The third thing is, litigation should never be made costly, so that the rich man can always harass the poor defendant. After all we must remember that court-fee paid is added in the costs and the defendant has to pay it, if the case of the plaintiff succeeds. Therefore, it is we have to remember that litigation should not be rendered costly.

" The fourth point that we should remember is, civil litigations are not merely for the enforcement of private rights only on account of the general law, but also on account of the very many statutes that are introduced. Many cases are about procedural matter. There are many cases about limitation, about contracts, about insolvency proceedings and so on. There are also many cases about the constitutional points now after our Constitution came into force. Statutes are growing in number every day. Every day legislation is going on. On account of honest interpretation of statutes, we have to go to court. In fact Government welcome any particular decision which makes a particular section or legislation clear. After all the legislators cannot visualise all the points that can be raised under a particular legislation. Therefore, Government have to take into account all these things and it is very difficult. In the complex system of our civilization now and when there are a large number of controls also by the Government on many matters, necessarily there is a larger amount of litigation. So, civil litigation need not be merely for enforcement of private rights and so, we cannot ask ' Why should the State be paid for it? ' All these arguments are generally right so far as they can go, but not to the full extent. That is what I want to observe on all these general matters which were discussed by my hon. Friends here.

" So far as the Bill is concerned, all these aspects and principles have not entirely been taken into consideration. For every thing court-fee has been increased. I do not think that even the mover of the Bill with his conspicuous ability to argue can maintain that court-fee has been rendered easier. Court-fee has been increased on all aspects. Is it right? That is the point before us. Is it right that we should make litigation costly for all classes of people? We must take the nature of the suit and time taken by the court into consideration for the purpose of fixing the court-fee. 3-20 p.m.

In this particular Bill I find all those matters have not been taken into consideration. For example between the 1870 Act and the present Bill there is a wide difference so far as the market value of house-sites and land is concerned. In this country there are a lot of agricultural lands. When for the purpose of other matters we say that agriculturists cannot even pay their debts and when moratorium is introduced, we cannot assume that they will be able to pay the court-fees. Therefore, so far as the market value of agricultural land is concerned, it is better to take the assessment into consideration. It may be said that the land value has increased. It may or may not be so. If we introduce land reforms, the value of the land may decrease very much. That is a thing which cannot be considered now. But many of the agriculturists are poor. Their land right is a valuable right. Therefore, on principle, when they want to enforce that right, it is better not to tax them too much in the form of court-fee. That is the general principle for which the assessment should be taken into consideration rather than the market value. That is why I say that so far as agricultural lands are concerned, there must be this difference. I am glad that that difference has been maintained by the Government in the Select Committee. Therefore, I feel that the assessment should be the factor to be taken into consideration and not the market value.

"I have given notice of some amendments and they have got to be moved. I shall talk about other matters when those amendments are moved. There are certain clauses about which we may want to say a few words although we may not have actually given notice of any amendment. If you put all clauses for which there is no amendment together, we may not be able to speak. It is a submission I want to make."

MR. CHAIRMAN :—"Let the hon. Member just give me an indication at the appropriate time and I shall allow him to speak."

SRI K. BALASUBRAMANYA AYYAR :—"In regard to a particular clause, we may feel that that clause ought not to be there at all. This is a matter which affects large numbers of people. Therefore, it ought to be discussed thoroughly so that all points of view may be put forward before the Government. I do not say that the Government have not looked into all the points. But they have considered one point of view, namely, increase in revenue. But whether that one point of view alone has got to be considered has to be investigated."

SRI A. M. ALLAPICHAI :—"Mr. Chairman, Sir, to-day's discussion on the Bill has been really very interesting. When I heard the speech of my hon. Friend Sri K. Bhashyam, one of our most learned advocates in the State and one of our biggest advocates in the country, I thought he was fast becoming a revolutionary. That view was confirmed when he was supported by the hon. Member opposite Sri Gurunandan Row. The hon. Member opposite said that civil litigation was a luxury. Litigation involved a waste of time, according to him. So, what was in his mind was that

all these civil litigations arose only because of property and personal rights. So, he thought that the best thing would be to abolish all these rights, that is, all the properties. Though he had not put it in so many words, the significance of his argument that civil litigation was a luxury in which rich people indulged was that. To abolish litigation, there must be abolition of private property. Perhaps, this was working in his mind. I may be right or wrong in my inference. Perhaps my hon. Friend Sri K. Bhashyam fell into that trap. On the other hand, as I have always maintained, the Congress Government have always been attempting to follow a middle path. They do not go to this extreme or that extreme. If some rich men have money, let that money be utilized for the benefit of the poor. Now, the plaintiffs who go to the court generally happen to be rich people and they can afford to spend some money. When the court gives a decree against the defendant, it is easy to know that he was in the wrong. So, the plaintiff brings forward a suit against the defendant, the wrong-doer. Now, the money which the plaintiff spent is collected from the defendant. In a way, therefore, he is punished. Just like a fine imposed on a criminal, he is punished. That money is not taken by any party but it goes into the coffers of the Government and is utilized for the good of the people. We have to bear that in mind.

" No doubt, there is a lot of force in the argument of the hon. Member Sri Balasubramanya Ayyar that litigation must be free or cheap. Certainly, it must be made as cheap as possible. If it can be done, well and good. But it is not possible now. Only because the Government feel that it is not possible, they have come forward with this Bill. The object of the Government and the Party to which the Government belong is to establish in this country a socialistic pattern of society. Therefore, they are moving gradually and cautiously and at the same time, without unduly affecting the interests and property rights of the persons concerned. If hon. Members should say that litigation must be made free, why not we go one step further and say, ' When a lawyer is appearing for the plaintiff and when some other lawyer is appearing for the defendant, both the people must be paid by the Government '? (Interruption.) If we go on like that, then we would say that education must be made free and all other things must be made free. Then, the Government may say, ' We shall do everything possible. Place all your property in our hands. We shall manage the whole thing. We shall give you food and clothing without your doing any work.' Therefore, I think consciously or unconsciously we are getting into a trap. In ' The Fall of the Roman Empire ' Gibbon has said that so long as our State is not Communistic, even the people who spend money on wrong things are doing some good service because money thereby gets distributed. Applying that argument here, litigation means to the extent to which money gets out of one's pocket as court-fee is paid money gets distributed.

" That is what Gibbon said long ago. I think the Government are quite right in bringnig in this measure. As a matter of fact, Sir, I cannot speak on this Bill with any amount of authority 3-30 p.m.

because almost all my life I have spent in criminal courts defending criminals. Whatever that may be, I think the Government have adopted certain definite principles taking into account the existing circumstances. Therefore, I feel Mr. Bhashyam's argument should have come in handy for Mr. Gurunandan Row to attack the Bill. I think Mr. Row has had a new convert to his views.

" Then, Sir, when we lawyer's speak, our friends feel that we support or attack a thing out of a selfish motive. Certainly not. If there is any group of men in the world who can be considered selfless from the point of view of individual interests, it is the lawyers. They will defend the whole world without defending themselves. They defend the worst criminal and many others. But they cannot defend their own interests and they have not defended their interests. They could never combine to defend themselves and so it is not fair to say that they support this or support that because they have their vested interests. When a lawyer takes up a case, he does his work loyally whatever the consequences be. It is a loyalty which is rarely found in any other profession. It is not a joke. I am putting this with all the seriousness that I can command. There is no other profession—except perhaps the medical profession and the army—which does its work with so much devotion. The doctor and the soldier on the battlefield do their work with devotion. Therefore, what I say is this. Lawyers have to be respected. Some kind of feeling is gaining ground that lawyers are not required. Do you know where lawyers are not required? They are not required in countries where liberty does not flourish. Only there they are not required or respected because they have always stood against tyranny. The freedom the world enjoys to-day has come out of the endeavours of great lawyers from time immemorial. Perhaps people have forgotten or not realised this fct. They have done the greatest possible good to the people."

THE HON. SRI C. SUBRAMANIAM :—" Mr. Chairman, Sir, the points of view put forward by the hon. Members, Mr. Bhashyam, Mr. Gurunandan Row, Mr. Balasubramanya Ayyar and, to a certain extent, Mr. Gajapathy Nayagar were expressed even before the Select Committee. Only after a full consideration of all these points of view, the Select Committee took a decision and the Bill was passed by the Assembly. The Bill is before this House in the form in which it was passed by the Assembly. Therefore, I do not propose to make any reply in detail to the points made here, except of course a few interesting points which were raised, especially by Mr. Gurunandan Row and my hon. Friend, Mr. Bhashyam. Mr. Gurunandan Row seems to think that there is the danger of this piece of legislation being held *ultra vires* on the ground that this is not a fee but a tax. I am not quite sure about it. If the existing Court Fee Act is good enough, then this Bill also should be good enough. If the existing Court Fee Act itself was held to be *ultra vires* of the powers of this Legislature, then I could doubt the validity of this measure. But it has not been declared so and so far nobody has canvassed this point before the courts, even though there are eminent lawyers like

Mr. Gurunandan Row. Even though rich persons have been called upon to pay thousands of rupees as court-fee, they have not raised this point. Simply because they are called upon to pay such fee, it cannot become tax. That is not the test to be applied here. There are other tests. Unfortunately the Hindu Religious Endowments case was referred to here. That was a different thing altogether. The subject-matter of the case was outside the scope of the Government's administration. Ordinarily, the Government have nothing to do with the administration of religious endowments. They have only taken over the superintendence of the endowments. For the purpose of meeting the cost of such superintendence, a fee was levied. But the administration of justice, as has been pointed out by Mr. Bhashyam, is one of the essential services which the Government have to render to society. Therefore, there is no question of any outside thing coming in for the supervision of which a fee is charged. So, that test cannot apply here.

"The only other question is whether the fee should be commensurate with the services rendered in respect of each case or the administration of justice as a whole. We must find out whether the Government are attempting to get any revenue out of this over and above the expenditure incurred or merely getting what they are just spending. If it is a question of loss, we need not worry about it. If it is a little more than what we spend, then the courts are not going to say anything because it is just one lakh or two lakhs of rupees more. They will say anything only if the fee is so disproportionate as to have nothing to do with the services rendered in dispensing justice. Therefore, I do not think each item should be taken into account separately for the purpose of finding out whether we charge the fee properly. I am of this view, subject of course to the views that the courts may hold. If they hold a different view, then there is time enough to consider the position.

"Then, Sir, Mr. Gurunandan Row, supported in a way by Mr. Bhashyam, said that the fee should be based on the time taken by the court to dispose of the particular case. I would request hon. Members to realise and ponder whether it is possible at all to accept this suggestion especially in the case of mufassal courts. I think it is absolutely impossible to accept it. There are easement suits, injunction suits and other small suits relating to land which easily take three or four days for their disposal. Now we have provided for a fee of Rs. 22–8–0 for such suits. If the suggestion of the hon. Members is accepted then in respect of such small suits much more fee may have to be levied. If they are to be charged fee with reference to the time taken, then it will be at least Rs. 100. That will be the minimum fee leviable in such cases. This system cannot work at all in our country and it is not worthwhile atempting such a system simply because we want to be logical about it. It will create more difficulties.

"Then, Sir, Mr. Bhashyam attempted to say 'why not include stamp duty you are collecting on documents?' If this argument

had come from a layman, I could understand it. But a very great lawyer and legislator coming forward with this suggestion, I cannot understand. This is court-fee and that is duty. Duty is a tax.
3-40 p.m. There is distinction between duty and fee. As far as the Constitution is concerned, they have laid down in the Constitution what are all the taxes which a State can levy. Stamp duty is one tax which the State can levy. Suppose a property is being sold. In the transaction of sale, the stamp duty is levied. For the purpose of possession, the title of the document is necessary. The document becomes effective only when the required stamp duty is paid and necessary stamps affixed. Tax is a different thing from fee. That has been accepted by all. It is on that basis that I say we cannot club court-fee and stamp duty. Whereas if it is a fee, it should be commensurate with the service rendered, in the case of a tax that need not be the case. So we cannot club stamp duty with court-fee and make them pay for the administration of justice. With great respect to my lawyer friend, Mr. Bhashyam, I regret I cannot accept what he had said, viz., to club stamp duty and court-fee. As a learned lawyer, Mr. Bhashyam had put forth all points of view. Of course lawyers put forward in courts all possible arguments. Mr. Bhashyam has not made exception to that even in the Legislature. He has put forward all points of view and has tried to put the facts of the case in all its aspects, just as he would put forward all arguments before the judge when arguing a case in the court. I may tell him there is no similarity between stamp duty and court-fee. Those two cannot be clubbed together for the purpose of meeting our expenditure on the administration of justice. I have already proved by figures how under the head 'Administration of Justice', we are now having a deficit. But hon. Members seem to think litigation should be made cheap and should not be made costly. I do agree with all those theories; but the function of the State is not merely to administer justice and not merely to keep law and order. As a matter of fact in a Welfare State, developmental activities are more important. Education, health, ensuring proper living conditions for the people —these and other social services for the benefit of the people are considered to be far more important than merely administering justice and keeping law and order. Therefore you cannot dissociate one from the other. For the purpose of providing the people with the social services outlined above, Government do need money. That is why taxes are levied. After all Government cannot get money from somewhere else. We get it *from* the people and then spend it *for* the people. That is the principle involved. Therefore if you say that court-fees should not be increased, then we have to get some more money from the general tax-payer for the purpose of meeting the deficit under the head 'Administration of Justice'. Is it right for the purpose of subsidising litigation that I should tax the general community a little more and thus meet the deficit? I do not think anybody would agree to the taxing a little more of the general community and that too for the purpose of subsidizing litigation. Hon. Members may find that even though originally I anticipated a revenue of Rs. 50 lakhs from this Bill for the Composite State (after

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partition, leaving out Andhra, we may get Rs. 25 to 30 lakhs), in the present Bill, as it is now before us, we have made increases in the court-fees only here and there. We have not at all effected any overall increase. And what is the money that we hope to get from this Bill? Hardly seven or eight lakhs of rupees. Therefore even after this Bill is passed and comes into effect, we would be getting only seven or eight lakhs of rupees. I am not considering this as a revenue measure but merely a revision of the Court Fee law. Incidentally we may get some money. Considering the dearness allowance paid to all the Government servants working in the courts and considering the general expenditure involved in the administration of justice, I do not think the sum of rupees seven or eight lakhs which we would be getting by way of this Bill, could be considered as a great income. It only amounts to 8 per cent. As against rupees one crore we are spending, this slight increase amounts to only 8 per cent. I do not think it could be said to be a large increase or heavy increase. Of course if you take one item here and there, the fee prescribed may appear big. But as Mr. Balasubramanya Ayyar said you should look at the entire aspect of it. What is the increase effected? It is 8 lakhs of rupees as against rupees one crore we are spending under the head 'Administration of Justice'. It comes to only 8 per cent. Are we not justified to have this 8 per cent increase now, when we take into consideration the present change in money and property values as against the pre-war level. I do hope that nobody could object to it. With these words, Sir, I hope the House would give its approval to this Bill."

MR. CHAIRMAN :—" The question is—

'That the Madras Court Fees and Suits Valuation Bill, 1954 (L.A. Bill No. 25 of 1954), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clauses 2 to 6 were put and carried.

Clause 7.

SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendments standing in my name, namely,—

'*In sub-clause* (2), (*a*) for *the word* " *thirty* " substitute *the word* " *twenty* ".

In sub-clause (2) (*d*) (i) *and* (ii), for *the word* " *thirty* " substitute *the word* " *twenty* ".

In sub-clause (2) (*e*) *and* (*f*), for *the word* " *thirty* " substitute *the word* " *twenty* ".

I want that instead of the words '30 times', the words '20 times' may be substituted. This was also mentioned in the Select Committee. I do not want to expatiate on this subject. We have already discussed this question. My point is so far as agricultural property is concerned it is better to levy the fee at 20 times the revenue assessment and not 30 times. Because of the various aspects

involved in the field of agriculture, the market value of the land may not be high. Market value alone should not be taken into consideration. Majority of agriculturists are poor. Even if you get a decree, you cannot execute the decree so far as these agriculturists are concerned, because they have not the wherewithal for it. They are poor. That is why I say my amendment fixing the fee at twenty times the annual assessment and not thirty times may be accepted."

The amendments were duly seconded.

THE HON. SRI C. SUBRAMANIAM :—" I do appreciate the point of view put forward by Sri Balasubramania Ayyar. But the Advocates' Federation who gave evidence were agreeable to have it at 50 times the annual assessment. That is what the Federation told us as a matter of fact. After a full discussion in the Select Committee, it was agreed to have it as 30 times the annual assessment. Therefore I do not think it should be further reduced. After all there should be some limit. Therefore I would request Mr. Balasubramanya Ayyar not to press his amendments."

SRI K. BALASUBRAMANYA AYYAR :—" I am not pressing, Sir."

Clause 7 was put and carried.

Clause 8.

SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendment standing in my name, namely,—

' Omit *the word* " *set off or* ".'

I want the word ' set off or ' to be omitted. So far as counter-claim is concerned, it is all right. I do not object to what is said with regard to counter-claim. But with regard to set off, it is not the case. For the amount due to a plaintiff from the defendant, a decree may be issued against the defendant. If it is a set off, the decree should be only for the amount of difference. But here it is said that the fee shall be chargeable in the same manner as a plaint. That is you fix the fee on the final amount. What I say is the fee should be chargeable only on the amount of difference. Therefore I think it is better to omit the word ' set off or '."

The amendment was duly seconded.

THE HON. SRI C. SUBRAMANIAM :—" The point for consideration is this. The plaintiff comes forward with a suit on a certain cause of action and says certain amount is due. The defendant on a different cause of action says that the plaintiff owes him money and this should be set off to meet the cause of action on which the plaintiff has sued. Therefore it is a trial of two suits. As a matter of fact one suit is on the cause of action in favour of the plaintiff while the other is on the cause of action in favour of the defendant. So under these circumstances, I do not think we could agree to the deletion of the words ' set off or '. As a matter of fact even now when I claim a suit, I have to pay court-fee for my defendant also."

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MR. CHAIRMAN :—" The question is—

' *Omit* the word " set off or." ' "

The amendment was lost.

Clause 8 was put and carried.

Clauses 9 to 11 were put and carried.

Clause 12.

SRI B. BALASUBRAMANYA AYYAR :—" Sir, I move the amendment standing in my name, viz., 3-50 p.m.

' Add *the following proviso to sub-clause* (1) :—

" *Provided that there shall be no review or further review in pure questions of facts relating to the valuation.*"

Sir, the Courts may have power to review the question of court-fee at any time they like. But, I only wish to point out that so far as questions of facts relating to the valuation are concerned there should be no review or further review. There should be some finality at some stage or other in respect of question of facts."

SRI MOHAMED RAZA KHAN :—" I second the amendment Sir."

THE HON. SRI C. SUBRAMANIAM :—" Sir, it all depends upon the importance of the issues involved. Even if they were questions of facts, sometimes they make a large difference and it also happens that even in respect of questions of law, they make very little difference. As far as I am concerned, what I want is that proper court-fee should be paid and honest people should not be penalised. If some dishonest people withhold certain facts, the courts must have power to look into those facts and ask them to pay the correct court-fee. They should not be left free. So, it cannot be said that the courts cannot go into such cases at any stage. If a person cleverly hides certain facts, should not the court have power to ask him to pay the correct court-fee at a later stage when those facts were found out? As a matter of fact, everybody should have an equal chance. We should not put a premium on dishonesty and non-disclosure of facts . That is why we say that at every stage it should be possible to review the question of payment of court-fee. An honest person will always give the facts honestly without disclosing anything and will pay whatever court-fee is payable. But, when a dishonest person fails to disclose all the facts and wants to pay as less as possible and hides as many facts as possible, I do not think we can give the advantage to the dishonest person. As a matter of fact, the hon. Members may be aware that in certain cases, some relevant facts will not be disclosed by the parties and those facts will come to light later on. When they come to light at a late stage, the entire aspect of the case will be changed. It is only to cover such cases, we have provided for the review of this question at every stage. It is not as if all the clients will be affected or all

of them will come under this clause. It is in respect of one in thousand or one in two thousand cases, this provision will be applied. So I do not think that this should be taken exception to."

SRI K. BALASUBRAMANYA AYYAR :—" Sir, I am not objecting to the court's reviewing such cases. They can do it at any time they like if it is a question of law. I am only saying that if it is only a pure question of facts, it need not be reviewed and further reviewed. Even according to the Civil Procedure Code, where a matter relates purely to facts, it is not to be taken in appeal over and over again. If there was to be review even in respect of pure questions of facts, I am afraid matters relating to court-fees alone will loom large in all the courts. The courts will have to divert all their attention to those matters and will have no time to attend to other matters."

THE HON. SRI C. SUBRAMANIAM :—" Sir, the hon. Member's amendment does not refer to appellate courts. It only says, 'Provided that there shall be no review or further review in pure questions of facts relating to the valuation.' This relates to the same court also. I am sorry I will not be able to accept the amendment."

MR. CHAIRMAN :—" The question is—

'*Add* the following proviso to sub-clause (1) :—

" Provided that there shall be no review or further review in pure questions of facts relating to the valuation." ' "

The amendment was lost.

Clause 12 was put and carried.

Clauses 13 to 17 were put and carried.

Clause 18.

SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendment standing in my name, viz.,

'Omit *sub-clause* (2) *and* renumber *sub-clause* (1) *as clause* 18.'

" Sir, I am not in favour of this clause at all. The High Court appoints the Court-fee Examiners. They are given power to inspect the records of Subordinate Courts and also to raise the question in any court at any time in respect of a suit that may be pending. It is also said in this clause that it shall be lawful for the court to review an early decision given by the court on the same question. So, the courts will have to concentrate all their attention upon court-fees only and not any other matter. It is said in sub-clause (2), 'Questions raised in reports submitted by such Court-fee Examiners and relating to any suit, appeal or other proceeding pending in a court shall be heard and decided by such court' Such a provision may be alright in the 1870 Act. But so far as this particular Bill is concerned, it is not quite right to have such a provision in it. I do not think it is really necessary that the Court-fee Examiners

should have the power to raise a particular point in respect of a pending appeal at any stage. It may be that they may suddenly raise any point in respect of a pending appeal and it shall be lawful for the court to review an earlier decision given by the court on the same question. By having such a provision, we will unnecessarily be complicating matters relating to court-fees and much of the time of the courts will be taken up to consider these matters only and no other matter.

The amendment was duly seconded.

THE HON. SRI C. SUBRAMANIAM :—" Sir, this is nothing new. As a matter of fact, the system of Court-fee Examiners is in vogue even now. They are experts in the law of court-fees and they scrutinize pending suits and pending appeals and then submit what are called, 'court-fee slips'. Then notice is issued to the parties. The courts hear them and also go through the court-fee slip submitted by the Court-fee Examiners and then give their decision. Such a procedure is absolutely necessary. After all, the courts will only be aware of facts which are placed before them by the parties. It is not as if there is any other third party interested in the matter. The Court-fee Examiners have other sources of information to find out whether the correct fee has been paid and whether all the facts have been given by the parties concerned. For instance, they can find out the correct position from the revenue authorities. It may be that two parties may collide purposely and undervalue a certain property and may not give the full facts relating to the property. Suppose the market value of a house in the City of Madras has to be fixed and full facts are not disclosed. The parties concerned may give the value of the house very low and on this basis they might have paid a certain court-fee. Now, when the Court-fee Examiners were able to get information that the property was situated in a very prominent locality and the market value of the same will be twice or even thrice the one given by the parties concerned, should not the court have power to ask the parties concerned to pay an additional court-fee? There may not be many such cases. As was pointed out by an experienced person who had been a Judge —Sri Gajapathi Nayagar—the percentage of such cases may be only 4 or 5. These will be only very rare cases. It is only to regularize a system that is already in vogue, we have incorporated such a provision. So, there is nothing wrong in having it."

MR. CHAIRMAN :—" The question is—

'*Omit* sub-clause (2) and *renumber* sub-clause (1) as clause 18.' "

The amendment was lost.

Clause 18 was put and carried.

Clauses 19 to 23 were put and carried.

Clause 24.

SRI K. BALASUBRAMANYA AYYAR :—" Mr. Chairman, I move the amendments standing in my name, viz.,

' Omit *sub-clause* (2) (*a*).

In sub-clause (2) (*b*), omit *the words " where the plaintiff's title to the money or the property secured by the document is not denied ".'*

" Sir, there are suits for possession of documents of title. For example, there may be suits for the purpose of getting possession of a promissory note.

" The party brings in the suit only for the recovery of the document and not the property conveyed by the document. The defendant might say : ' No, no. It is mine. It is not yours ' and all that. The court can merely say, ' if you prove that the document is yours, you may take it '. So far as the recovery of the money is concerned, it is a different matter and the party concerned may bring in a suit on that particular matter. So far as title is concerned, the Court Fees Act of 1870 does not take the market value into consideration. Whatever value the plaintiff puts in his plaint is accepted, because after all he wants to recover possession of the document. Where there is no denial of the title, the clause accepts the value put on the plaint. But where there is a denial, it is then valued at one-fourth market value. This is a departure from the original principle laid down in the Court Fee Act of 1870. I only want that the Government should conform to the original principle. Whenever there is a suit for recovery of document, there is no question of denial of title by the defendant and so far as the plaintiff is concerned he is concerned with the recovery of the particular piece of paper on the ground he has a right to possess it. That is the only thing that has got to be decided. The court need not ask the plaintiff to bring a suit for the recovery or possession of the property or enforce his right of possession over the property. That is my submission, Sir."

SRI MOHAMED RAZA KHAN :—" I second the amendments, Sir."

THE HON. SRI C. SUBRAMANIAM :—" Sir, the point involved is this. In section 24 (2) what is stated is : ' In a suit for possession of documents of title, fee shall be computed on one-fourth of the amount or of the market value of the property secured by the document '. The point is this. If it is merely a claim as of right that he is entitled to it and property is not disputed at all, then he is of right entitled to the document. Then the other issues do not arise. He can value as he likes. But incidentally if the title with reference to the property involved in that document is to be raised and decided, then one-fourth of the amount of the market value has to be paid as court-fees, since the greater question of title to the property itself has got to be decided. Of course where the document itself is in favour of a certain person and that person claims it,

on the face of it the other questions do not arise. But where certain documents are claimed by right of succession saying : 'I am the heir. The property secured by the document should go to me and not to the other person. He is not entitled to it', then the entire thing will have to be litigated upon and issues framed. Then the questions will have to be discussed. There we cannot leave it to the plaintiff to value it as he likes. At least one-fourth of the amount or of the market value of the property secured by the document should be paid as court-fee. I do not think any hardship will be caused on account of this."

MR. CHAIRMAN :—" The question is—

'*Omit* sub-clause (2) (*a*).' "

The amendment was lost.

MR. CHAIRMAN :—" The question is—

'In sub-clause (2) (*b*), *omit* the words " where the plaintiff's title to the money or the property secured by the document is not denied ".' "

The amendment was lost.

Clause 24 was put and carried.

Clauses 25 to 68 were put and carried.

Clause 69.

SRI K. BALASUBRAMANYA AYYAR :—" Mr. Chairman, Sir, I move the amendment standing in my name, namely :—

'Add *the following before the Explanation* :—

" *Where any suit is decreed ex parte or comprised or withdrawn or referred to arbitration before evidence has been recorded on the merits of the claim, half the amount of all fees paid in respect of the claim or claims of the suit shall be ordered by the court to be refunded to the parties, by whom the same have been respectively paid.*" ' "

SRI MOHAMED RAZA KHAN :—" I second the amendment, Sir."

SRI K. BALASUBRAMANYA AYYAR :—" Mr. Chairman, Sir, this chapter deals with refund of court-fee. This is a very important chapter. There are many points mentioned there where refund of court-fee can be given to the party concerned. By my amendment, I am only seeking to give effect to the principle that the time of the court has not been taken on account of the fact that the suit has been decreed ex parte, or is compromised—not out of court—or referred to arbitration before evidence has been taken. This is accepted even in the Presidency Small Cause Court. In these cases, the court has nothing to look into and half of the fees paid by the party should be refunded."

THE HON. SRI C. SUBRAMANIAM :—" Mr. Chairman, Sir, this clause as it stands relates to cases : ' where before the evidence is taken on the merits of the claim, the case is settled out of court and such a settlement is reported to the court '. So much so, the court has nothing more to do with that. That is the case involved in this clause. The hon. Member wants that to be extended to other cases also. It is not merely with reference to the time taken with regard to the passing of the decree but the execution of the decree later on which is more difficult than even getting a decree. In our country, in all these cases not merely the time taken for trial and passing of the decree should be taken into consideration but also the time taken with reference to the execution of the decree also. We do not pay any court-fee for execution of a decree. As a matter of fact, it is only an ordinary petition. As I said elsewhere and as is put in a decision of the Privy Council, the difficulties of the plaintiff in India start after getting a decree. There is difficulty only in the execution of the decree, even in respect of compromise decrees. The very interpretation of the decree gives rise to difficulties. The execution of the decree gives rise to further difficulties. This is also the case with reference to arbitration cases. The matter does not end with the passing of an award. That is why we have recognized in clause 69 only certain categories of cases wherein the court will have nothing more to do with the cases. They are closed once and for all. But the categories of cases referred to by the hon. Member will really give greater trouble at later stages. Therefore it will not be possible to extend that principle to all cases. We have just made a beginning. Let us see how this works. Perhaps later on we may consider other cases also."

SRI K. BALASUBRAMANYA AYYAR :—" Sir, so far as the execution of the court decree is concerned, we do not increase the court-fee on account of the difficulties involved in the execution of the decrees. If, in a particular case, the litigant is put to lot of difficulties, do the Government increase the court-fee payable in such cases? No. With the passing of the decree, one stage is over and execution of the decree is the next stage. It is only an ordinary petition presented with a fee of Rs. 2 for the execution of the decree. Whether there are difficulties in the execution of the decree or not, it does not matter. Therefore that argument should not be put forward here where the court has not spent much time over the whole question, where the suit is decreed ex parte, or compromised or withdrawn or referred to arbitration before evidence has been recorded on the merits of the case. In the case of the ex parte decree, it takes only two minutes for the Judge. In the case of compromise suits also, it does not take much time. The Judge does not even write the decree. It is written by the clerk. The Judge merely signs. (Interruption.) That is your fault and not the fault of the parties. The time factor in these cases is very important. Therefore, I ask why should not Government refund half of the court-fee paid in these cases? "

THE HON. SRI C. SUBRAMANIAM :—" I am not accepting the amendments, Sir."

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MR. CHAIRMAN :—" The question is—

'*Add* the following before the Explanation :—

" Where any suit is decreed ex parte or compromised or withdrawn or referred to arbitration before evidence has been recorded on the merits of the claim, half the amount of all fees paid in respect of the claim or claims of the suit shall be ordered by the court to be refunded to the parties, by whom the same have been respectively paid." ' "

The amendment was lost.

Clause 69 was put and carried.

Clauses 70 to 81 were put and carried.

Clause 82.

SRI K. BALASUBRAMANYA AYYAR :—" Sir, rules may be placed before this House also." 4-10 p.m.

THE HON. SRI C. SUBRAMANIAM :—" Yes, Sir, I give the assurance that they will be placed here also."

MR. CHAIRMAN :—" Is the hon. Member not moving his amendment? "

SRI K. BALASUBRAMANYA AYYAR :—" I am not moving it."

Clause 82 was put and carried.

Clauses 83 to 87 were put and carried.

SCHEDULE I.

SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendments standing in my name, namely :—

'*In Article* 1 (*i*), for *the word* " *six* ", substitute *the word* " *two* ".

For *the existing Article* 1 (*iii*), substitute *the following* :—

" (*iii*) *exceeds one hundred rupees, for every ten rupees or part thereof in excess of one hundred rupees up to one thousand rupees.*	*Six annas.*
(*iv*) *exceeds one thousand rupees for every ten rupees or part thereof.*	*Twelve annas.*"

I agree that the rate of 7½ per cent *ad valorem* is a very reasonable rate and I do not question it at all. But so far as cases of a small cause nature are concerned, this rate should be reduced a little. For a suit valued at Rs. 500 why should a poor litigant be asked to pay six annas? After all, he has to pay lawyer's fee and other fees. I hope the Government will look into that aspect of the matter."

SRI MOHAMED RAZA KHAN :—" Sir, I second the amendments."

THE HON. SRI C. SUBRAMANIAM :—" No principle is involved in it. The reduction suggested is very drastic—from six annas to two annas, that is, one-third court-fee. I do not think that we are justified in reducing it to that extent. After all, we are just abolishing the distinction between a smaller suit and a higher suit and we are adopting a uniform scale of fee. It will give room for agitation if it should be brought down to that level. Having adopted the 7½ per cent rate, let us stick to it throughout."

MR. CHAIRMAN :—" The question is—

'In Article (1) (i), *for* the word " six ", *substitute* the word " two ".

For the existing Article 1 (iii), *substitute* the following :—

" (iii) exceeds one hundred rupees for every ten rupees of part thereof in excess of one hundred rupees up to one thousand rupees.	Six annas.
(iv) exceeds one thousand rupees for every ten rupees or part thereof.	Twelve annas."

The amendments were lost.

Schedule I was put and carried.

Schedules II and III were put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI C. SUBRAMANIAM :—" Sir, I move—

'*That the Madras Court Fees and Suits Valuation Bill*, 1954 (*L.A. Bill No.* 25 *of* 1954), *as passed by the Assembly, be passed.*'

I do not think that I need make any speech now as all the points have been thrashed out. I am sure when the Act is worked it will be a simpler measure and there will be less hardship as far as litigants are concerned. If there is really any difficulty, certainly we will take note of it and take further action. As far as possible we will try to improve the present measure and, I think, we have really made an improvement. I hope the Bill will be passed unanimously."

MR. CHAIRMAN :—" The question is—

'That the Madras Court Fees and Suits Valuation Bill, 1954 (L.A. Bill No. 25 of 1954), as passed by the Assembly, be passed.' "

The motion was carried and the Bill was passed.

MR. CHAIRMAN :—" The House now stands adjourned *sine die.*"

The House then adjourned *sine die.*

APPENDIX I.

[Vide answer to starred question No. 289 asked by Sri T. Purushotham at the meeting of the Legislative Council held on 7th April 1955, page 906 supra.]

(a) *The total number of Lino machines in the Government Press, Madras*—Thirty.

(b) *The strength of mechanics working in the Lino Department for each shift*—

First shift (6 a.m. to 2 p.m.)—One senior mechanic and two junior mechanics.

Second shift (2 p.m. to 10 p.m.)—One senior mechanic and two junior mechanics.

Office hours (8-45 a.m. to 5-30 p.m.)—Two head mechanics and one auxiliary mechanic.

(c) *The number of Lino machines that are not working and the reasons therefor*—Five old machines out of the 30 machines are not working. Five new machines were purchased to replace the above five old machines, which however were not condemned but kept on for use in emergencies, to enable the running of some of the machines on single shift, etc. Further, matrices which are essential for the working of a Linotype machine have been in short supply for a considerable time and the indent placed with the Director-General, India Stores, London, in 1952, has not been complied with yet. Certain important matrices were not available locally, and the local rates were also high. In view of this and as the matrices for which orders were placed in London in 1952, were expected to arrive at any time, the matrices in the five old machines were removed for use on five new machines. Though the five new machines were supplied with matrices, the matrices had to be replaced on account of wear and tear.

(d) *The amount spent towards the local purchase of Lino spares and matrices from 1st January to 1st October 1954*—Rs. 3,990-1-0.

(e) *Whether Lino spares, etc., were received from the United Kingdom recently and if so, the year in which the indent was made for the same*—Yes, Sir, on 29th October 1954. The indent was made on 3rd January 1952 for the year 1951-52.

APPENDIX II.

[Vide item II (1) on page 909 supra.]

L.A. BILL No. 52 OF 1954.

(As passed by the Assembly.)

A Bill to provide for the regulation of exhibitions by means of cinematographs in the State of Madras.

WHEREAS it is expedient to provide for the regulation of exhibitions by means of cinematographs in the State of Madras;

BE it enacted in the Sixth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras Cinemas (Regulation) Act, 1955.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force on such date as the Government may by notification, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires—

(1) " cinematograph " includes any apparatus for the representation of moving pictures or series of pictures;

(2) " District Collector " in relation to the presidency-town, means the Commissioner of Police, Madras;

(3) " Government " means the State Government;

(4) " notification " means a notification published in the *Fort St. George Gazette;*

(5) " place " includes a house, building, tent and any description of transport, whether by water, land or air;

(6) " prescribed " means prescribed by rules made under this Act.

3. *Cinematograph exhibitions to be licensed.*—Save as otherwise provided in this Act, no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act, or otherwise than in compliance with any conditions and restrictions imposed by such licence.

4. *Licensing authority.*—The authority having power to grant licences under this Act (hereinafter referred to as the licensing authority) shall be the District Collector :

Provided that the Government may, by notification, constitute, for the whole or any part of the State, such other authority as it may specify in the notification to be the licensing authority for the purposes of this Act.

5. *Restrictions on powers of licensing authority.*—(1) The licensing authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters, namely :—

(*a*) the interest of the public generally;

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(b) the status and previous experience of the applicant;

(c) the suitability of the place where the cinematograph exhibitions are proposed to be given;

(d) the adequacy of existing places for the exhibition of cinematograph films in the locality;

(e) the benefit to any particular locality or localities to be afforded by the opening of a new place of cinematograph exhibition;

(f) the possession by the applicant, of other places, if any, licensed under this Act, whether in the same locality or elsewhere, and whether at the time of applying for the licence or at any previous time;

and shall also take into consideration any representations made by persons already giving cinematograph exhibitions in or near the proposed locality or by any local authority or police authority within whose jurisdiction the place proposed to be licensed is situated or by any association interested in the giving of cinematograph exhibitions.

(2) The licensing authority shall not grant a licence unless it is satisfied that—

(a) the rules made under this Act have been substantially complied with, and

(b) adequate precautions have been taken in the place, in respect of which the licence is to be granted, to provide for the safety, convenience and comfort of the persons attending exhibitions therein.

(3) The licensing authority may, after consideration of the matters set forth in sub-section (1), limit the number of places in any area in respect of which licences under this Act may be granted.

(4) The Government may issue such orders and directions of a general character as they may consider necessary, in respect of any matter relating to licences for the exhibition of cinematograph films, to licensing authorities; and every licensing authority shall give effect to such orders and directions.

(5) Subject to the foregoing provisions of this section, the licensing authority may grant licences under this Act to such persons and on such terms and conditions and subject to such restrictions as it may determine. Where the licensing authority refuses to grant any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

(6) Every licence under this Act shall be personal to the person to whom it is granted and no transfer or assignment thereof whether absolute or by way of security or otherwise shall be valid unless approved in writing by the licensing authority.

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(7) Any person aggrieved by the decision of the licensing authority refusing to grant a licence under this Act or refusing to approve any transfer or assignment thereof, may, within such time as may be prescribed, appeal to such authority as the Government may specify in this behalf and such authority may make such order in the case as it may think fit.

6. *Power of Government to issue directions.*—The Government may, from time to time, issue directions to any licensee or to licensees generally, requiring the licensee or licensees to exhibit such film or class of films having a scientific or educative value, such films dealing with news and current events, such documentary films, indigenous films, or such other films having special value to the public, as may have been approved by the Government in that behalf from time to time; and where any such directions have been issued, those directions shall be deemed to be additional conditions and restrictions subject to which the licence has been granted:

Provided that no direction issued under this section shall require the licensee to exhibit any such film or films exceeding two thousand feet at, or for more than one-fifth of the entire time token for, any one show.

7. *Power of Government or District Collector to suspend exhibition of films in certain cases.*—(1) The Government in respect of the whole of the State or any part thereof, and the District Collector within his jurisdiction, may, if they or he are or is of opinion that any film which is being or is about to be publicly exhibited is likely to cause a breach of the peace, by order, suspend the exhibition of the film; and during such suspension, no person shall exhibit such film or permit it to be exhibited in any place in the State or any part or district thereof, as the case may be.

(2) No order shall be issued under sub-section (1) until the person concerned has been given a reasonable opportunity of showing cause against the order proposed to be issued in regard to him:

Provided that this sub-section shall not apply where the Government or the District Collector proposing to issue the order are or is satisfied that owing to any emergency or for some other reason, to be recorded by them or him in writing, it is not reasonably practicable to give to that person an opportunity of showing cause:

Provided further that a copy of the reasons recorded by the Government or the District Collector for issuing the order shall be communicated to the person concerned as soon as it becomes reasonably practicable to communicate the reasons to him.

(3) If any question arises whether it is reasonably practicable to give to any person an opportunity of showing cause under sub-section (2), the decision thereon of the Government or the District Collector, as the case may be, shall be final.

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(4) Where an order under subsection (1) has been issued by the District Collector, a copy thereof, together with a statement of the reasons therefor, shall forthwith be forwarded by him to the Government, and the Government may, on a consideration of all the facts of the case, either confirm or vary or discharge the order.

(5) An order issued under sub-section (1) shall remain in force for a period of two weeks from the date thereof but the Government may, if they are of opinion that the order should continue in force, direct that the period of suspension shall be extended by such further period as they think fit:

Provided that the Government or the District Collector may review their own order.

8. *Penalties.*—If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Act or of the rules made thereunder, or of the conditions and restrictions upon or subject to which any licence has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues.

9. *Power to revoke licence.*—Where the holder of a licence has been convicted of an offence under section 7 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952), or section 8 of this Act, the licence may be revoked by the licensing authority by an order in writing.

10. *Power to make rules.*—(1) The Government may, by notification, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the terms, conditions and restrictions, subject to which a licence may be granted under this Act and the fees to be paid in respect of such licence;

(*b*) the regulation of cinematograph exhibitions for securing the public safety;

(*c*) the time within which and the conditions subject to which an appeal under sub-section (7) of section 5 may be preferred, and the fees to be paid in respect of such appeal;

(*d*) the procedure for approval of films for the purposes of section 6.

(3) All rules made under this Act shall come into force on the date of notification and shall be laid for not less than fifteen days before both Houses of the State Legislature, as soon as possible after they are made, and shall be subject to such modifications whether by way of repeal or amendment, as those Houses may make during the session in which they are laid.

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11. *Power to exempt.*—The Government may, by order in writing, exempt, subject to such conditions and restrictions as they may impose, any cinematograph exhibition or class of cinematograph exhibitions or any place where a cinematograph exhibition is given from any of the provisions of this Act or of any rules made thereunder.

12. *Repeal.*—In relation to this State, the Cinematograph Act, 1918 (Central Act II of 1918), in so far as it has not been repealed by the Cinematograph Act, 1952 (Central Act XXXVII of 1952), is hereby repealed :

Provided that any appointment, notification, order, scheme, rule, form or by-law, made or issued under the repealed Act, shall, so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been made or issued under the provisions of this Act, unless and until it is superseded by any appointment, notification, order, scheme, rules form or by-law made or issued under this Act.

APPENDIX III.

[Vide item II (2) on page 929 supra.]

L.A. BILL No. 8 OF 1955.

(As passed by the Assembly.)

A Bill further to amend the Presidency Small Cause Courts Act, 1882, *in its application to the State of Madras.*

WHEREAS it is necessary and expedient further to amend the Presidency Small Cause Courts Act, 1882 (Central Act XV of 1882), in its application to the State of Madras, for the purposes hereinafter appearing ;

BE it enacted in the Sixth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Presidency Small Cause Courts (Madras Amendment) Act 1955.

(2) It shall come into force on such date as the State Government may, by notification in the *Fort St. George Gazette*, appoint.

2. *Amendment of section* 71, *Central Act XV of* 1882.—In section 71 of the Presidency Small Cause Courts Act, 1882 (Central Act XV of 1882) (hereinafter referred to as the principal Act), for clauses (*a*) and (*b*), the following shall be substituted :—

"the sum of twelve annas for every ten rupees or part thereof of the amount or value of the subject-matter."

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3. *Insertion of new sections 72-A and 72-B in Central Act XV of* 1882.—After section 72 of the principal Act, the following sections shall be inserted, namely :—

" 72-A. *Fees for certain applications.*—No document of any of the kinds specified in the Fifth Schedule shall be filed, exhibited or recorded in, or shall be received or furnished by, the Small Cause Court, unless in respect of such document, the fee specified therein be paid.

72-B. *Fees for applications under section* 38.—A fee amounting to one-half of the fee payable on the plaint in a suit for the amount or value of the relief claimed in the application, including the value of any relief claimed in respect of costs, shall be paid on every application made under section 38 on which the Small Cause Court orders that notice be issued on the opposite party, and such notice shall not be issued until such fee has been paid :

Provided that where a new trial is ordered to be held, the Small Cause Court may direct that such fee be repaid, in whole or in part, to the party by whom it has been paid."

4. *Insertion of new sections 74-A to 74-E in Central Act XV of* 1882.—After section 74 of the principal Act, the following sections shall be inserted, namely :—

" 74-A. *Costs where poor person succeeds.*—Where the plaintiff or applicant in any suit or application received and registered under section 74 succeeds in the suit or application, the Small Cause Court shall calculate the amount of fee which would have been paid by the plaintiff or applicant if that suit or application had not been so received and registered ; such amount shall be recoverable by the State Government from any party ordered by the decree or order to pay the same, and shall be a first charge on the subject-matter of the suit or application.

74-B. *Procedure where poor person fails.*—Where the plaintiff or applicant fails in the suit or application or where the suit or application is withdrawn or where part of the claim is abandoned or where the suit or application is dismissed because the plaintiff or applicant does not appear when the suit or application is called on for hearing, the Small Cause Court shall order the plaintiff or applicant or any person added as a co-plaintiff to the suit or co-applicant in the application to pay the fee and in the case of abandonment of part of the claim the proportionate fee which would have been payable by the plaintiff or applicant if the suit or application had not been received and registered under section 74.

74-C. *Payment of fees by next friend of minor in certain cases.*—Where the Small Cause Court finds that a suit or application received and registered under section 74 has been instituted unreasonably or improperly by a next friend on behalf of a minor plaintiff or applicant on a cause of action which accrued during the minority of such plaintiff or applicant, the Small Cause Court may order the next friend to personally pay the fee.

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74-D. *Procedure where suit or application by poor person abates.*—Where the suit or application abates by reason of the death of the plaintiff or of any person added as a co-plaintiff or of the applicant or of any person added as a co-applicant, the Small Cause Court shall order that the amount of fee which would have been paid by the plaintiff or applicant if his suit or application had not been received and registered under section 74 shall be recoverable by the State Government from the estate of the deceased plaintiff or applicant.

74-E. *Recovery of amount of fee.*—Where an order is made under section 74-A, 74-B, 74-C or 74-D, the Small Cause Court shall forthwith cause a copy of the decree or order to be forwarded to the Collector, who may, without prejudice to any other mode of recovery, recover the amount of fee specified therein from the person or property liable for the payment as if it were an arrear of land revenue."

5. *Substitution of new section for section 77 in Central Act XV of* 1882.—For section 77 of the principal Act, the following sections shall be substituted, namely :—

"77. *Decision as to proper fee.*—If any difference arises between the officer whose duty it is to see that any fee is paid under this Act and any party as to the necessity of paying a fee or the amount thereof, the question shall be referred to the Registrar whose decision shall be final except where, in his opinion, the question is one of general importance, in which case he shall refer it to the Chief Judge.

77-A. *Collection of fees by stamps.*—All fees chargeable under this Act shall be collected by stamps."

6. *Addition of a new Schedule to Central Act XV of* 1882.—After the Fourth Schedule to the principal Act, the following schedule shall be added, namely :—

"THE FIFTH SCHEDULE.

(*See* section 72-A.)

Article.	*Particulars.*	*Proper fee.*
1	Applications for lapsed deposits presented after six months after the date on which the amount lapsed to the Government—	
	(i) when the amount or deposit does not exceed Rs. 50.	Eight annas.
	(ii) when the amount or deposit exceeds Rs. 50 but does not exceed Rs. 1,000.	One rupee.
	(iii) When it exceeds Rs. 1,000.	Two rupees.

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Article.	Particulars.	Proper fee.
2	Copy or translation of a judgment or order not being or having the force of a decree—	
	(a) if the amount or value of the subject-matter is Rs. 50, or less than Rs. 50.	Eight annas.
	(b) if such amount or value exceeds Rs. 50.	One rupee.
3	Copy of a decree or order having the force of a decree—	
	(a) if the amount or value of the subject-matter of the suit wherein such decree or order is made is Rs. 50 or less than Rs. 50.	Twelve annas.
	(b) if such amount or value exceeds Rs. 50.	One rupee and eight annas.
4	Copy of any document liable to stamp duty under the Indian Stamp Act, 1899, when left by any party to a suit or proceeding in place of the original withdrawn—	
	(a) when the stamp duty chargeable on the original does not exceed eight annas.	The amount of the duty chargeable on the original.
	(b) in any other case	Twelve annas.
5	Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act or copy of any account, statement, report, or the like taken out of the Small Cause Court—	
	For every document	Twelve annas.
6	Vakalatnama or any paper signed by an Advocate signifying or intimating that he is retained for a party except where the party is a member of any of the Armed Forces of the Union not in civil employment.	One rupee and eight annas.
7	Application to receive and register a suit or an application under section 41 without payment or on part-payment of fees mentioned in sections 71 and 72.	Twelve annas

Article.	Particulars.	Proper fee.
8	Application for a copy of translation of any judgment, decree or any proceeding or order or of any other document on record.	Four annas.
9	Application or petition not otherwise provided for in this Act.	Twelve annas.

7. *Amendment of Schedule I-A to Central Act II of* 1899.—In Article 40 of Schedule I-A to the Indian Stamp Act, 1899 (Central Act II of 1899), the following entries shall be omitted, namely :—

" (*b*) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882.	One rupee two annas."

8. *Saving.*—All suits and proceedings instituted in the Small Cause Court before the commencement of this Act and all proceedings by way of appeal, revision or otherwise arising therefrom, whether instituted before or after such commencement, shall be governed by the provisions of the principal Act as if this Act had not been passed.

APPENDIX IV.

[Vide item II (3) on page 932 supra.]

L.A. BILL No. 10 OF 1955.

(As passed by the Assembly.)

A Bill further to amend the Tanjore Chattram Endowments (Utilization) Act, 1942.

WHEREAS it is expedient further to amend the Tanjore Chattram Endowments (Utilization) Act, 1942 (Madras Act VIII of 1942), for the purposes hereinafter appearing;

BE it enacted in the Sixth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Tanjore Chattram Endowments (Utilization) Amendment Act, 1955.

2. *Substitution of long title and preamble, Madras Act VIII of* 1942.—In the Tanjore Chattram Endowments (Utilization) Act, 1942 (Madras Act VIII of 1942) (hereinafter referred to as the principal Act), for the long title and the preamble, the following long title and preamble shall be substituted, namely :—

" *An Act to provide for the making of contributions from, and the diversion of, the funds of the Tanjore Chattram Endowments towards the establishment or maintenance of certain institutions, and for other purposes.*

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Whereas it is expedient to provide for the making of contributions from, and the diversion of, the funds of the Tanjore Chattram Endowments towards the establishment or maintenance of certain institutions, and for other purposes; it is hereby enacted as follows :—".

3. *Substitution of new section for section* 2, *Madras Act VIII of* 1942.—For section 2 of the principal Act, the following section shall be substituted, namely :—

"2. *Power to make contributions, diversions, etc.*—(1) The Tanjore District Board or such other authority or person as may for the time being have the management and superintendence of the Tanjore Chattram Endowments may, subject to such restrictions and conditions, if any, as may be imposed by the State Government—

(*a*) contribute from the income derived from the said endowments towards the expenditure incurred in the maintenance of—

(i) the institutions specified in the Schedule, and

(ii) such other institutions as may be notified in this behalf by the State Government;

(*b*) appropriate or divert a sum of four lakhs, ninety-four thousand and five hundred rupees from the funds of the said endowments for the purpose of the establishment or maintenance of a first-grade college at Tanjore and invest and keep invested the said sum in securities issued or guaranteed by the State Government; and

(*c*) contribute from the interest derived from the investment aforesaid a sum of fifteen thousand rupees annually for the purpose of the establishment or maintenance of the said first-grade college at Tanjore.

(2) The corpus of the investment referred to in clause (*b*) of sub-section (1) shall be held in trust for the purposes of the said college in the joint names of three trustees, namely, the Tanjore District Board, the University of Madras and the managing body of the said college; but the district board alone shall be competent to draw or deal with the interest derived from the investment.

(3) The district board or other authority or person referred to in sub-section (1) may also lease out any land or building belonging to the said Endowments, for a period not exceeding three years at a time, either rent-free or at concessional rates of rent, to a department of the Government, any local body or any private institution, for the purpose of running farms for the improvement of livestock; and may renew any such lease for a period not exceeding three years at a time ".

4. *Amendment of section* 3, *Madras Act VIII of* 1942.—In section 3 of the principal Act, the brackets and figure " (1) " at the beginning of sub-section (1) shall be omitted, and sub-section (2) shall be omitted.

APPENDIX V.

[Vide item II (4) on page 947 supra.]

L.A. BILL No. 25 OF 1954.

(As passed by the Assembly.)

A Bill to amend and consolidate the law relating to court-fees and valuation of suits in the State of Madras.

WHEREAS it is necessary and expedient to amend and consolidate the law relating to court-fees and valuation of suits in the State of Madras:

BE it enacted in the Sixth Year of the Republic of India as follows:—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras Court-fees and Suits Valuation Act, 1955.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force on such date as the State Government may, by notification in the *Fort St. George Gazette*, appoint.

2. *Application of Act.*—(1) The provisions of this Act shall not apply to—

(*a*) proceedings in the Presidency Court of Small Causes, Madras;

(*b*) documents presented or to be presented before an officer serving under the Central Government.

(2) Where any other law contains provisions relating to the levy of fee in respect of proceedings under such other law, the provisions of this Act relating to the levy of fee in respect of such proceedings shall apply subject to the said provisions of such other law.

3. *Definitions.*—In this Act, unless the context otherwise requires,—

(i) " appeal " includes a cross-objection;

(ii) " Court " means any Civil, Revenue, or Criminal Court and includes a Tribunal or other authority having jurisdiction under any special or local law to decide questions affecting the rights of parties;

(iii) " prescribed " means prescribed by rules made under this Act; and

(iv) expressions used and not defined in this Act or in the Madras General Clauses Act, 1891 (Madras Act I of 1891), but defined in the Code of Civil Procedure, 1908 (Central Act V of 1908), shall have the meanings respectively assigned to them in the said Code.

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CHAPTER II.

LIABILITY TO PAY FEE.

4. *Levy of fee in Courts and public offices.*—No document which is chargeable with fee under this Act shall—

(i) be filed, exhibited or recorded in, or be acted on or furnished by, any Court including the High Court, or

(ii) be filed, exhibited or recorded in any public office, or be acted on or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated as chargeable under this Act :

Provided that, whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is in the opinion of the Court necessary to prevent a failure of justice, nothing contained in this section shall be deemed to prohibit such filing or exhibition.

5. *Fees on documents inadvertently received.*—When a document on which the whole or any part of the fee prescribed by this Act has not been paid is produced or has, through mistake or inadvertence, been received in any Court or public office, the Court or the head of the office may, in its or his discretion at any time, allow the person by whom such fee is payable to pay the fee or part thereof, as the case may be, within such time as may be fixed; and upon such payment, the document shall have the same force and effect as if the full fee had been paid in the first instance.

6. *Multifarious suits.*—(1) In any suit in which separate and distinct reliefs are sought based on the same cause of action, the plaint shall be chargeable with a fee on the aggregate value of the relief :

Provided that, if a relief is sought only as ancillary to the main relief, the plaint shall be chargeable only on the value of the main relief.

(2) Where more reliefs than one based on the same cause of action are sought in the alternative in any suit, the plaint shall be chargeable with the highest of the fees leviable on the reliefs.

(3) Where a suit embraces two or more distinct and different causes of action and separate reliefs are sought based on them, either alternatively or cumulatively, the plaint shall be chargeable with the aggregate amount of the fees with which plaints would be chargeable under this Act if separate suits were instituted in respect of the several causes of action :

Provided that, where the causes of action in respect of reliefs claimed alternatively against the same person arise out of the same transaction, the plaint shall be chargeable only with the highest of the fees chargeable on them.

Nothing in the sub-section shall be deemed to affect any power conferred upon a Counrt uder rule 6 or Order II of the Code of Civil Procedure, 1908 (Central Act V of 1908).

(4) The provisions of this section shall apply *mutatis mutandis* to memoranda of appeals, applications, petitions and written statements.

Explanation.—For the purpose of this section, a suit for possession of immovable property and for mesne profits shall be deemed to be based on the same cause of action.

7. *Determination of market value.*—(1) Save as otherwise provided, where the fee payable under this Act depends on the market value of any property, such value shall be determined as on the date of presentation of the plaint.

(2) The market value of land in suits falling under section 25 (*a*), 25 (*b*), 27 (*a*), 29, 30, 37 (1), 37 (3), 38, 45 or 48 shall be deemed to be—

(*a*) where the land is ryotwari land—thirty times the survey assessment on the land :

Provided that, where the land forms part of a survey field and is not separately assessed to revenue, the value of such part shall be deemed to be thirty times such proportion of the survey assessment as the part bears to the entire survey field.

Explanation.—Lands in the areas in which the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930) is in force shall be regarded as ryotwari lands.

(*b*) where the land is situated in an estate as defined in sub-section (2) of section 3 of the Madras Estates Land Act, 1908 (Madras Act I of 1908), not being a land of the description mentioned in sub-clause (*g*) and such estate has been taken over by the Government under the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948)—thirty times the land revenue payable on the land under section 23 of that Act; but if a ryotwari settlement has since been effected in pursuance of section 22 of that Act, in respect of such land, thirty times the assessment as so fixed;

(*c*) where the land is situated in an estate which became an estate under the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936)—thirty times the rent payable for the land as fixed under the Madras Estates Land (Reduction of Rent) Act, 1947 (Madras Act XXX of 1947);

(*d*) where the land is an ' estate ' as defined in the Madras Estates Land Act, 1908 (Madras Act I of 1908)—

(i) where separate *peishkush* is recorded in the Collector's register as payable for the estate—thirty times such *peishkush;*

(ii) in any other case—thirty times the annual melvaram realizable from the estate;

(*e*) where the land is a minor inam held under inam title deed—thirty times the assessment as noted in the village ' B ' Register;

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(f) where the land is in an inam village which is not an 'estate' as defined in sub-section (2) of section 3 of the Madras Estates Land Act, 1908 (Madras Act I of 1908)—thirty times the rent payable in respect of it;

(g) where the land is a house-site whether assessed to full revenue or not, poramboke land, or is land not falling within the foregoing description—its market value.

8. *Set off or counter claim.*—A written statement pleading a set off or counter claim shall be chargeable with fee in the same manner as a plaint.

9. *Documents falling under two or more descriptions.*—Subject to the provisions of the last preceding section, a document falling within two or more descriptions in this Act shall, where the fees chargeable thereunder are different, chargeable only with the highest of such fees :—

Provided that, where one of such descriptions is special and another general, the fee chargeable shall be the fee appropriate to the special description.

CHAPTER III.

DETERMINATION OF FEE.

10. *Statement of particulars of subject-matter of suit and plaintiff's valuation thereof.*—In every suit in which the fee payable under this Act on the plaint depends on the market value of the subject-matter of the suit, the plaintiff shall file with the plaint, a statement in the prescribed form, of particulars of the subject-matter of the suit and his valuation thereof unless such particulars and the valuation are contained in the plaint.

11. *Decision as to proper fee in the High Court.*—Where, in a suit instituted in the High Court, in which a fee is payable under this Act, any difference arises between the officer whose duty it is to see that proper fee is paid and any party as to the necessity of paying a fee or the amount thereof, the question shall be referred to the Taxing Officer who shall decide the same :

Provided that, if in the opinion of the Taxing Officer, the question is one of general importance, he may refer it to the Chief Justice of the High Court or such Judge or Judges of the High Court as the Chief Justice shall appoint, either generally or specially in this behalf :

Provided further that, when the case comes up for disposal before the Court, the decision of the Taxing Officer may be reviewed by the Court.

12. *Decision as to proper fee in other Courts.*—(1) In every suit instituted in any Court other than the High Court, the Court shall, before ordering the plaint to be registered, decide on the materials and allegations contained in the plaint and on the materials contained in the statement, if any, filed under section 10 the proper

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fee payable thereon, the decision being however subject to review, further review and correction in the manner specified in the succeeding sub-sections.

(2) Any defendant may, by his written statement filed before the first hearing of the suit or before evidence is recorded on the merits of the claim but, subject to the next succeeding sub-section, not later, plead that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient. All questions arising on such pleas shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim. If the Court decides that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient, the Court shall fix a date before which the plaint shall be amended in accordance with the Court's decision and the deficit fee shall be paid. If the plaint be not amended or if the deficit fee be not paid within the time allowed, the plaint shall be rejected and the Court shall pass such order as it deems just regarding costs of the suit.

(3) A defendant added after issues have been framed on the merits of the claim may, in the written statement filed by him, plead that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient. All questions arising on such pleas shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim and if the Court finds that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient the Court shall follow the procedure laid down in sub-section (2).

Explanation.—Nothing in this sub-section shally apply to a defendant added as a successor or a representative in interest of a defendant who was on record before issues were framed on the merits of the claim and who had an opportunity to file a written statement pleading that the subject-matter of the suit was not properly valued or that the fee paid was not sufficient.

(4) (*a*) Whenever a case comes up before a Court of Appeal, it shall be lawful for the Court, either of its own motion or on the application of any of the parties, to consider the correctness of any order passed by the lower Court affecting the fee payable on the plaint or in any other proceeding in the lower Court and determine the proper fee payable thereon.

Explanation.—A case shall be deemed to come before a Court of Appeal even if the appeal relates only to a part of the subject-matter of the suit.

(*b*) If the Court of Appeal decides that the fee paid in the lower Court is not sufficient, the Court shall require the party liable to pay the deficit fee within such time as may be fixed by it.

(*c*) If the deficit fee is not paid within the time fixed and the default is in respect of a relief which has been dismissed by the lower Court and which the appellant seeks in appeal, the

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appeal shall be dimissed, but if the default is in respect of a relief which has been decreed by the lower Court, the deficit fee shall be recoverable as if it were an arrear of land revenue.

(*d*) If the fee paid in the lower Court is in excess, the Court shall direct the refund of the excess to the party who is entitled to it.

(5) All questions as to value for the purpose of determining the jurisdiction of courts arising on the written statement of a defendant shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim.

Explanation.—In this section, the expression " merits of the claim " refers to matters which arise for determination in the suit, not being matters relating to the frame of the suit, misjoinder of parties and causes of action, the jurisdiction of the Court to entertain or try the suit or the fee payable but inclusive of matters arising on pleas of *res judicata*, limitation and the like.

13. *Additional fee on issues framed.*—Where a party becomes liable to pay additional fee by reason of an issue framed in the suit, the provisions of the last foregoing section shall apply to the determination and levy of such additional fee subject to the modification that where the party liable does not pay such additional fee within the time allowed, the Court shall strike off the issue and proceed to hear and decide the other issues in the case.

14. *Relinquishment of portion of claim.*—A plaintiff who has been called upon to pay additional fee may relinquish a part of his claim and apply to have the plaint amended so that the fee paid would be adequate for the claim made in the plaint as amended. The Court shall allow such application on such terms as it considers just and shall proceed to hear and decide the claim made in the plaint as amended, provided that the plaintiff shall not be permitted at any later stage of the suit to add to the claim the part so relinquished.

15. *Fee payable on written statements.*—Where fee is payable under this Act on a written statement filed by a defendant, the provisions of section 12 shall apply to the determination and levy of the fee payable on such written statement, the defendant concerned being regarded for the said purpose as the plaintiff and the plaintiff or the co-defendant or the third party against whom the claim is made being regarded as the defendant.

16. *Fee payable on appeals, etc.*—The provisions of sections 10 to 14 relating to the determination and levy of fee on plaints in suits shall apply *mutatis mutandis* to the determination and levy of fee in respect of a memorandum of appeal, cross-objection or other proceeding in second appeal or in an appeal under the Letters Patent.

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17. *Fee payable on petitions, applications, etc.*—The provisions of sections 10 to 14 shall apply *mutatis mutandis* to the determination and levy of fee in respect of petitions, applications and other proceedings in Courts in the same way as they apply to the determination and levy of fee on plaints in suits.

18. *Court-fee Examiners.*—(1) The High Court may depute officers to be designated Court-fee Examiners to inspect the records of subordinate Courts with a view to examine the correctness of representations made to, and orders passed by Courts on questions relating to valuation of subject-matter and sufficiency of fee in respect of proceedings in such Courts.

(2) Questions raised in reports submitted by such Court-fee Examiners and relating to any suit, appeal or other proceeding pending in a Court shall be heard and decided by such Court; and for the avoidance of doubt it is hereby declared that in hearing and deciding a question raised in any such report, it shall be lawful for the Court to review an earlier decision given by the Court on the same question.

19. *Inquiry and commission.*—For the purpose of deciding whether the subject-matter of a suit or other proceeding has been properly valued or whether the fee paid is sufficient, the Court may hold such inquiry as it considers proper and may, if it thinks fit, issue a commission to any proper person directing him to make such local or other investigation as may be necessary and to report thereon to the Court.

20. *Notice to the State Government.*—In any inquiry relating to the fee payable on a plaint, written statement, petition, memorandum of appeal or other document, or to the valuation of the subject-matter of the claim to which the plaint, written statement, petition, memorandum of appeal or other document relates, in so far as such valuation affects the fee payable, the Court may, if it considers it just or necessary to do so, give notice to the State Government; and where such notice is given, the State Government shall be deemed to be a party to the suit or other proceeding as respects the determination of the question or questions aforesaid; and the Court's decision on such question or questions shall when it passes a decree or final order in such suit or proceeding, be deemed to form part of such decree or final order.

CHAPTER IV.

Computation of fee.

21. *Fee how reckoned.*—The fee payable under this Act shall be determined or computed in accordance with the provisions of this Chapter, Chapter VI, Chapter VIII and Schedules I and II.

22. *Suits for money.*—In a suit for money (including a suit for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically), fee shall be computed on the amount claimed.

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23. *Suits for maintenance and annuities.*—In the suits hereinafter mentioned, fee shall be computed as follows :—

(*a*) in a suit for maintenance, on the amount claimed to be payable for one year;

(*b*) in a suit for enhancement or reduction of maintenance, on the amount by which the annual maintenance is sought to be enhanced or reduced;

(*c*) in a suit for annuities or other sums payable periodically, on five times the amount claimed to be payable for one year :

Provided that, where the annuity is payable for less than five years, the fee shall be computed on the aggregate of the sums payable :

Provided further that a suit for enhancement of maintenance shall be instituted in a court which will have jurisdiction to receive a suit for maintenance at the enhanced rate claimed and one for reduction of maintenance shall be instituted in a court which will have jurisdiction to receive a suit for maintenance at the rate which is sought to be reduced.

24. *Suits for movable property.*—(1) In a suit for movable property other than documents of title, fee shall be computed—

(*a*) where the subject-matter has a market value, on such value; or

(*b*) where the subject-matter has no market value, on the amount at which the relief sought is valued in the plaint.

(2) (*a*) In a suit for possession of documents of title, fee shall be computed on one-fourth of the amount or of the market value of the property secured by the document—

(i) where the plaint alleges denial of the plaintiff's title to the money or the property secured by the document, or

(ii) where an issue is framed regarding the plaintiff's title to the money or the property secured by the document :

Provided that where the allegation in the plaint or the issue framed relates only to a portion of the amount or property, fee shall be computed on one-fourth of such portion of the amount or on one-fourth of the market value of such portion of the property.

(*b*) In a suit for possession of documents of title where the plaintiff's title to the money or the property secured by the document is not denied, fee shall be computed on the amount at which the relief sought is valued in the plaint.

Explanation.—The expression " document of title " means a document which purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, in any property.

25. *Suits for declaration.*—In a suit for a declaratory decree or order, whether with or without consequential relief, not falling under section 26—

(*a*) where the prayer is for a declaration and for possession of the property to which the declaration relates, fee shall be computed on the market value of the property or on rupees three hundred, whichever is higher;

(*b*) where the prayer is for a declaration and for consequential injunction and the relief sought is with reference to any immovable property, fee shall be computed on one-half of the market value of the property or on rupees three hundred, whichever is higher;

(*c*) where the prayer relates to the plaintiff's exclusive right to use, sell, print or exhibit any mark, name, book, picture, design or other thing and is based on an infringement of such exclusive right, fee shall be computed on the amount at which the relief sought is valued in the plaint or on rupees five hundred, whichever is higher;

(*d*) in other cases, whether the subject-matter of the suit is capable of valuation or not, fee shall be computed on the amount at which the relief sought is valued in the plaint or on rupees four hundred, whichever is higher.

26. *Adoption suits.*—In a suit for a declaration in regard to the validity or invalidity of an adoption or the factum of an adoption, fee shall be payable at the following rates :—

(i) In a District Munsif's Court.	**Rupees fifty.**
(ii) In the City Civil Court, Madras, or a Sub-Court or a District Court	**Rupees one hundred if the market value of the property involved in or affected by the relief is Rs. 10,000 or less and rupees five hundred if it is above Rs 10,000.**
(iii) In the High Court ...	**Rupees five hundred.**

27. *Suits for injunction.*—In a suit for injunction—

(*a*) where the relief sought is with reference to any immovable property, and

(i) where the plaintiff alleges that his title to the property is denied, or

(ii) where an issue is framed regarding the plaintiff's title to the property,

fee shall be computed on one-half of the market value of the property or on rupees three hundred, whichever is higher;

(*b*) where the prayer relates to the plaintiff's exclusive right to use, sell, print or exhibit any mark, name, book, picture, design or other thing and is based on an infringement of such exclusive right, fee shall be computed on the amount at which the relief sought is valued in the plaint or on rupees five hundred, whichever is higher;

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(*c*) in any other case, whether the subject-matter of the suit has a market value or not, fee shall be computed on the amount at which the relief sought is valued in the plaint or on rupees four hundred, whichever is higher.

28. *Suits relating to trust property.*—In a suit for possession or joint possession of trust property or for a declaratory decree, whether with or without consequential relief in respect of it, between trustees or rival claimants to the office of trustee or between a trustee and a person who has ceased to be trustee, fee shall be computed on one-fifth of the market value of the property subject to a maximum fee of rupees two hundred or where the property has no market value, on rupees one thousand :

Provided that, where the property does not have a market value, value for the purpose of determining the jurisdiction of courts shall be such amount as the plaintiff shall state in the plaint.

Explanation.—For the purpose of this section, property comprised in a Hindu, Muslim or other religious or charitable endowment shall be deemed to be trust property and the manager of any such property shall be deemed to be the trustee thereof.

29. *Suits for possession under the Specific Relief Act*, 1877.—In a suit for possession of immovable property under section 9 of the Specific Relief Act, 1877 (Central Act I of 1877), fee shall be computed on one-half of the market value of the property or on rupees two hundred, whichever is higher.

30. *Suits for possession not otherwise provided for.*—In a suit for possession of immovable property not otherwise provided for, fee shall be computed on the market value of the property or on rupees four hundred, whichever is higher.

31. *Suits relating to easements.*—In a suit relating to an easement, whether by the dominant or the servient owner, fee shall be computed on the amount at which the relief sought is valued in the plaint, which amount shall in no case be less than rupees three hundred;

Provided that, where compensation is claimed besides other relief relating to such easement, fee shall be paid on the amount claimed as compensation in addition to the fee payable on such other relief.

32. *Pre-emption suits.*—In a suit to enforce a right of pre-emption, fee shall be computed on the amount of the consideration for the sale which the pre-empter seeks to avoid or on the market value whichever is less.

33. *Suit relating to mortgages.*—(1) In a suit to recover the money due on a mortgage, fee shall be computed on the amount claimed.

Explanation.—It is immaterial that sale of the mortgaged property is not prayed for.

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(2) Where, in such a suit, the holder of a prior mortgage or charge is impleaded and he prays in his written statement that the amount due on his mortgage or charge be determined and that the decree contain a direction for the payment of such amount to him, fee shall be payable on the written statement computed on the amount claimed :

Provided that, where the holder of the mortgage or charge has paid a fee in any other proceeding on the claim to which his written statement relates, credit shall be given for the fee paid by him in such other proceeding.

(3) Where, in such a suit, the mortgaged property is sold and the holder of a prior or subsequent mortgage or charge applies for payment to him, out of the sale proceeds, of the amount due on his mortgage or charge, such holder of the prior or subsequent mortgage or charge shall pay on his application a fee computed on the amount claimed by him :

Provided that, where such holder of the mortgage or charge is a party to the suit in which the sale was held and has paid fee on the written statement filed by him in the suit, no fee shall be payable by him on the application for payment out of the sale proceeds :

Provided further that, where the holder of the mortgage or charge, not being a party to the suit in which the sale is held, has paid a fee in any other proceeding on the claim to which his application relates, credit shall be given for the fee paid by him in such other proceeding.

(4) In a suit by a co-mortgagee for the benefit of himself and the other co-mortgagees, fee shall be computed on the amount claimed on the entire mortgage :

Provided that, where a co-mortgagee impleaded as defendant in such suit claims on the entire mortgage a larger sum than is claimed in the plaint, the difference between the fee computed on the entire sum claimed in such defendant's written statement and the fee computed on the entire sum claimed in the plaint shall be payable on the written statement.

Explanation.—Nothing in this sub-section shall be construed as affecting the law of limitation.

(5) (*a*) In a suit by a sub-mortgagee to recover the amount claimed on the sub-mortgage by sale of the mortgagee's interest in the mortgaged property, fee shall be computed on the amount claimed under the sub-mortgage.

(*b*) In a suit by a sub-mortgagee, if the prayer is for the

sale of the property mortgaged to the original mortgagee and the original mortgagor is also impleaded as a defendant, fee shall be computed on the entire amount claimed on the original mortgage which is sub-mortgaged to him.

(6) Where the holder of a prior or subsequent mortgage or charge is impleaded in a suit by a co-mortgagee to which sub-section (4) applies, or in a suit by a sub-mortgagee to which sub-section (5) applies, the provisions of sub-sections (2) and (3) shall apply *mutatis mutandis* to a written statement or an application filed by such holder of mortgage or charge.

(7) Where the original mortgagee who is impleaded in a suit to which the provisions of sub-section (5) (*b*) apply claims on the mortgage sub-mortgaged by him a larger amount than is claimed in the plaint, the provisions of sub-section (4) shall apply *mutatis mutandis* to the written statement of such mortgagor.

(8) In a suit against a mortgagee for redemption of a mortgage, fee shall be computed on the amount due on the mortgage as stated in the plaint or on one-fourth of the principal amount secured under the mortgage, whichever is higher :

Provided that, where the amount due on the mortgage is found to be more than the amount on which fee has been paid by the plaintiff, no decree shall be passed until the deficit fee is paid :

Provided further that, in the case of an usufructuary or anomalous mortgage, if the plaintiff prays for redemption as well as for accounts of surplus profits, fee shall be levied separately on the relief for accounts as in a suit for accounts.

(9) In a suit by a mortgagee to foreclose the mortgage or, where the mortgage is made by conditional sale, to have the sale declared absolute, fee shall be computed on the amount claimed in the plaint by way of principal and interest.

34. *Suits relating to kanams under the Malabar Tenancy Act, 1929.*—(1) A suit by a landlord for recovery of possession of property transferred by way of kanam or kanam-kuzhikanam shall be deemed to evolve the reliefs of redemption and ejectment, and fee shall be levied in respect of each of the reliefs, that is to say, on the kanartham in respect of the relief of redemption and on one year's michavaram or rent in respect of the relief of ejectment.

(2) If in any such suit, arrears of michavaram or rent or damages or both are also sought to be recovered, fee shall be levied also on the amount of such arrears or damages or both :

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Provided that, where the plaintiff seeks to set off the kanartham and the value of the improvements due by him to the defendant against arrears of michavaram or rent due to him, fee shall be levied only on the balance claimed; and if the amount ascertained to be due to him exceeds the amount as estimated by the plaintiff, no decree shall be passed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the amount so ascertained is paid. If the additional fee is not paid within such time as the Court may fix, the decree shall be limited to the amount to which the fee paid extends.

35. *Suits for accounts.*—(1) In a suit for accounts fee shall be computed on the amount sued for as estimated in the plaint.

(2) Where the amount payable to the plaintiff as ascertained in the suit is in excess of the amount as estimated in the plaint, no decree directing payment of the amount as so ascertained shall be passed until the difference between the fee actually paid and the fee that would have been payable had the suit comprised the whole of the amount so ascertained, is paid. If the additional fee is not paid within such time as the Court may fix, the decree shall be limited to the amount to which the fee paid extends.

(3) Where in any such suit it is found that any amount is payable to the defendant, no decree shall be passed in his favour until he pays the fee due on the amount.

36. *Suits for dissolution of partnership.*—(1) In a suit for dissolution of partnership and accounts or for accounts of dissolved partnership, fee shall be computed on the value of the plaintiff's share in the partnership as estimated by the plaintiff.

(2) If the value of the plaintiff's share as ascertained in the suit exceeds the value as estimated in the plaint, no decree, or where there has been a preliminary decree, no final decree, shall be passed in favour of the plaintiff, no payment shall be made out of the assets of the partnership and no property shall be allotted as for the plaintiff's share, until the difference between the fee actually paid and the fee that would have been payable had the suit comprised the whole of the value so ascertained, is paid.

(3) No final decree shall be passed, no money shall be paid and no allotment of property shall be made in favour of a defendant in any such suit as, for or on account of, his share of the assets of the partnership, until the fee computed on the amount or value of his share of the assets of the partnership is paid.

37. *Partition suits.*—(1) In a suit for partition and separate possession of a share of joint family property or of property owned, jointly or in common, by a plaintiff who has been excluded from possession of such property, fee shall be computed on the market value of the plaintiff's share.

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(2) In a suit for partition and separate possession of joint family property or property owned, jointly or in common, by a plaintiff who is in joint possession of such property, fee shall be paid at the following rates :—

When the plaint is presented to—

(i) a District Munsif's Court.	Rupees thirty.
(ii) the City Civil Court, Madras, or a Sub-Court or a District Court.	Rupees thirty if the value of plaintiff's share is Rs. 5,000 or less; Rupees hundred if the value is above Rs. 5,000 but below Rs. 10,000; and Rupees two hundred if the value is Rs. 10,000 and above.
(iii) the High Court ..	Rupees three hundred.

(3) Where, in a suit falling under sub-section (1) or sub-section (2), a defendant claims partition and separate possession of his share of the property, fee shall be payable on his written statement computed on half the market value of his share or at half the rates specified in sub-section (2), according as such defendant has been excluded from possession or is in joint possession.

(4) Where, in a suit falling under sub-section (1) or sub-section (2), the plaintiff or the defendant seeks cancellation of decree or other document of the nature specified in section 40, separate fee shall be payable on the relief of cancellation in the manner specified in that section.

38. *Suits for joint possession.*—In a suit for joint possession of joint family property or of property owned, jointly or in common, by a plaintiff who has been excluded from possession, fee shall be computed on the market value of the plaintiff's share.

39. *Administration suits.*—(1) In a suit for the administration of an estate, fee shall be levied on the plaint at the rates specified in section 50.

(2) Where any amount or share or part of the assets of the estate is found due to the plaintiff, and the fee computed on the amount or the market value of such share or part of the assets exceeds the fee paid on the plaint, no payment shall be made and no decree directing payment of money or confirming title to such share or part of the assets shall be passed until the difference between the fee actually paid and the fee computed on the amount or value of the property, is paid.

(3) No payment shall be made, no decree directing payment of money or confirming title to any share or part of the assets of the estate shall be passed in favour of a defendant in a suit for administration, until the fee computed on the amount or value of such share or part of such assets is paid by such defendant.

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(4) In computing the fee payable by a plaintiff or by a defendant under sub-section (2) or sub-section (3), credit shall be given for the fee if any, paid by such plaintiff or by such defendant in any other proceeding in respect of the claim on the basis of which such amount or share or part of the assets of the estate becomes due to such plaintiff or to such defendant.

40. *Suits for cancellation of decrees, etc.*—(1) In a suit for cancellation of a decree for money or other property having a money value, or other document which purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest in money, movable or immovable property, fee shall be computed on the value of the subject-matter of the suit, and such value shall be deemed to be—

if the whole decree or other document is sought to be cancelled, the amount or value of the property for which the decree was passed or other document was executed;

if a part of the decree or other document is sought to be cancelled, such part of the amount or value of the property.

(2) If the decree or other document is such that the liability under it cannot be split up and the relief claimed relates only to a particular item of property belonging to the plaintiff or to the plaintiff's share in any such property, fee shall be computed on the value of such property or share or on the amount of the decree, whichever is less.

Explanation.—A suit to set aside an award shall be deemed to be a suit to set aside a decree within the meaning of this section.

41. *Suits to set aside attachment, etc.*—(1) In a suit to set aside an attachment by a Civil or Revenue Court of any property, movable or immovable, or of any interest therein or of any interest in revenue, or to set aside an order passed on an application made to set aside the attachment, fee shall be computed on the amount for which the property was attached or on one-fourth of the market value of the property attached, whichever is less.

(2) In a suit to set aside any other summary decision or order of a Civil or Revenue Court, if the subject-matter of the suit has a market value, fee shall be computed on one-fourth of such value, and in other cases, fee shall be payable at the rates specified in section 50.

Explanation.—For the purpose of this section, the Registrar of Co-operative Societies shall be deemed to be a Civil Court.

42. *Suits for specific performance.*—In a suit for specific performance, whether with or without possession, fee shall be payable—

(*a*) in the case of a contract of sale, computed on the amount of the consideration;

(*b*) in the case of a contract of mortgage, computed on the amount agreed to be secured by the mortgage;

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(c) in the case of a contract of lease, computed on the aggregate amount of the fine or premium, if any, and of the average of the annual rent agreed to be paid;

(d) in the case of a contract of exchange, computed on the amount of the consideration, or as the case may be, on the market value of the property sought to be got in exchange;

(e) in other cases, where the consideration for the promise sought to be enforced has a market value, computed on such market value, or where such consideration has no market value, at the rates specified in section 50.

43. *Suits between landlord and tenant.*—(1) In the following suits between landlord and tenant, namely—

(a) for the delivery by a tenant of the counterpart of a lease or for acceptance of patta in exchange for a muchilika;

(b) for enhancement of rent;

(c) for the delivery by a landlord of a lease or for obtaining a patta in exchange for a muchilika;

(d) for recovering occupancy of immovable property from which a tenant has been illegally ejected by the landlord;

(e) for establishing or disproving a right of occupancy;

fee shall be levied on the amount of rent for the immovable property to which the suit relates, payable for the year next before the date of presenting the plaint.

(2) In a suit for recovery of immovable property from a tenant including a tenant holding over after the termination of a tenancy, fee shall be computed on the premium, if any, and on the rent payable for the year next before the date of presenting the plaint.

Explanation.—Rent includes also damages for use and occupation payable by a tenant holding over.

(3) In an appeal from a suit to contest a distraint under section 95, sub-section (1) or sub-section (2), of the Madras Estates Land Act, 1908 (Madras Act I of 1908), or to contest the right of sale under section 112 of that Act, fee shall be charged on the amount of the arrears for which the distraint has been made or the sale is proposed to be held.

44. *Suits for mesne profits.*—(1) In a suit for mesne profits or for immovable property and mesne profits, fee shall in respect of mesne profits be computed, where the amount is stated approximately and sued for, on such amount. If the profits ascertained to be due to the plaintiff are in excess of the profits as approximately estimated and sued for, no decree shall be passed until the difference between the fee actually paid and the fee that would have been payable had the suit comprised the whole of the profits so ascertained is paid.

(2) Where a decree directs an enquiry as to the mesne profits which have accrued on the property, whether prior or subsequent

to the institution of the suit, no final decree shall be passed till the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits accrued due till the date of such decree is paid.

(3) Where, for a period subsequent to the date of the decree or final decree, such decree or final decree directs payment of mesne profits at a specified rate, such decree or final decree shall not be executed until the fee computed on the amount claimed in execution has been paid.

45. *Suits under the Madras Survey and Boundaries Act*, 1923.—In a suit under section 14 of the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923), fee shall be computed on one-half of the market value of the property affected by the determination of the boundary or on rupees three hundred, whichever is higher.

46. *Suits to alter or cancel entry in a register.*—In a suit to alter or cancel any entry in a register of the names of proprietors of revenue-paying estate, the fee payable shall be fifteen rupees.

47. *Suits relating to public matters.*—In a suit for relief under section 14 of the Religious Endowments Act, 1863 (Central Act XX of 1863), or under section 91 or section 92 of the Code of Civil Procedure, 1908 (Central Act V of 1908), the fee payable shall be fifty rupees.

48. *Interpleader suits.*—(1) In an interpleader suit, fee shall be payable on the plaint at the rates specified in section 50.

(2) Where issues are framed as between the claimants, fee shall be payable computed on the amount of the debt or the money or the market value of other property, movable or immovable, which forms the subject-matter of the suit. In levying such fee, credit shall be given for the fee paid on the plaint; and the balance of the fee shall be paid in equal shares by the claimants who claim the debt or the sum of money or the property adversely to each other.

(3) Value for the purpose of determining the jurisdiction of courts shall be the amount of the debt, or the sum of money or the market value of other property to which the suit relates.

49. *Third party proceedings.*—In third party proceedings, fee shall be levied on one-half of the value of the contribution or indemnity claimed against a third party or against a co-defendant if a claim is made against him :

Provided that, if the suit against the defendant who has filed the third party notice is dismissed, wholly or in part, he shall be entitled to a refund of the whole or a proportionae part of the fee paid by him.

Explanation.—The provisions of this section shall also apply to counter-claims made in third party proceedings.

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50. *Suits not otherwise provided for.*—In suits not otherwise provided for, fee shall be payable at the following rates :—

(i) In a Revenue Court ..	Rupees fifteen.
(ii) In a District Munsif's Court.	Rupees thirty.
(iii) In the City Civil Court, Madras, or a Sub-Court or a District Court.	Rupees thirty if the value of the subject-matter is Rs. 5,000 or less ; rupees one hundred if the value is above Rs. 5,000 but below Rs. 10,000 ; and rupees two hundred if the value is Rs. 10,000 and above.
(iv) In the High Court ..	Rupees three hundred.

51. *Fee on memorandum of appeal against order relating to compensation.*—The fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of property for public purposes shall be computed on the difference between the amount awarded and the amount claimed by the appellant.

52. *Appeals.*—The fee payable in an appeal shall be the same as the fee that would be payable in the Court of first instance on the subject-matter of the appeal :

Provided that, in levying fee on a memorandum of appeal against a final decree by a person whose appeal against the preliminary decree passed by the Court of first instance or by the Court of appeal is pending, credit shall be given for the fee paid by such person in the appeal against the preliminary decree.

Explanation (1).—Whether the appeal is against the refusal of a relief or against the grant of the relief, the fee payable in the appeal shall be the same as the fee that would be payable on the relief in the Court of first instance.

Explanation (2).—Costs shall not be deemed to form part of the subject-matter of the appeal except where such costs form themselves the subject-matter of the appeal or relief is claimed as regards costs on grounds additional to, or independent of, the relief claimed regarding the main subject-matter in the suit.

Explanation (3).—In claims which include the award of interest subsequent to the institution of the suit, the interest accrued during the pendency of the suit till the date of decree shall be deemed to be part of the subject-matter of the appeal except where such interest is relinquished.

Explanation (4).—Where the relief prayed for in the appeal is different from the relief prayed for or refused in the Court of first instance, the fee payable in the appeal shall be the fee that would be payable in the Court or first instance on the relief prayed for in the appeal.

Explanation (5).—Where the market value of the subject-matter of the appeal has to be ascertained for the purpose of computing or determining the fee payable, such market value shall be ascertained as on the date of presentation of the plaint.

CHAPTER V.

VALUATION OF SUITS.

53. *Suits not otherwise provided for.*—(1) In a suit as to whose value for the purpose of determining the jurisdiction of courts, specific provision is not otherwise made in this Act or in any other law, value for that purpose and value for the purpose of computing the fee payable under this Act shall be the same.

(2) In a suit where fee is payable under this Act at a fixed rate, the value for the purpose of determining the jurisdiction of courts shall be the market value or where it is not possible to estimate it at a money value such amount as the plaintiff shall state in the plaint.

54. *Procedure where objection is taken on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes.*—(1) Notwithstanding anything contained in section 99 of the Code of Civil Procedure, 1908 (Central Act V of 1908), an objection that by reason of the over-valuation or under-valuation of a suit or appeal, a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court, unless—

(*a*) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or

(*b*) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(2) If the objection was taken in the manner mentioned in clause (*a*) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in clause (*b*) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.

(3) If the objection was taken in that manner and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers

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issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(4) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 115 of the Code of Civil Procedure, 1908 (Central Act V of 1908), or other enactment for the time being in force.

CHAPTER VI.

PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION.

55. *Application for probate or letters of administration.*—(1) Every application for the grant of probate or letters of administration shall be accompanied by a valuation of the estate in duplicate in the form set forth in Part I of Schedule III.

(2) On receipt of such application, the Court shall send a copy thereof and of the valuation of the Collector of the district in which the estate is situated, or if the estate is situated in more than one district, to the Collector of the district in which the most valuable portion of the immovable property included in the estate is situated.

56. *Levy of fee.*—(1) The fee chargeable for the grant of probate or letters of administration shall comprise—

a fee at the rate or rates prescribed in Article 6 of Schedule I, computed—

(*a*) where the application is made within one year of the date of death of the deceased, on the market value of the estate on such date; or

(*b*) where the application is made after the expiry of one year from such date, on the market value of the estate on the date of the application :

Provided that property held in trust not beneficially or with general power to confer a beneficial interest shall not be liable to any fee under this chapter.

Explanation.—Any member of a joint Hindu family governed by the Mitakshara Law who applies for probate or letters of administration in respect of the estate of a deceased member of the joint family shall pay a fee on the value of the share in the joint property which the deceased would have received if a partition of the property had been made immediately before his death.

(2) For the purpose of the computation of fee—

(*a*) the value of the items mentioned in Annexure B to Part I of Schedule III shall be deducted from the value of the estate :

Provided that, when an application is made for probate or letters of administration in respect of part only of an estate, no

debt, no expenses connected with any funeral rites or ceremonies and no mortgage encumbrance on any part of the estate other than that in respect of which the application is made shall be deducted :

Provided further that when, after the grant of a certificate under Part X of the Indian Succession Act, 1925 (Central Act XXXIX of 1925), or under Bombay Regulation VIII of 1827 in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant;

(*b*) the power of appointment which the deceased had over a property or which was created under a will shall be taken into account, the value being taken to be the value of the property forming the subject-matter of the power.

57. *Grant of probate.*—The grant of probate or letters of administration shall not be delayed by reason of the reference to the Collector under section 55, sub-section (2), or of a motion by the Collector under section 59, sub-section (5); but the Court shall make no grant of probate or letters of administration until it is satisfied that a fee not less than that prescribed by this Act has been paid on the basis of the net value of the estate as furnished in the valuation accompanying the application, or in the amended valuation filed under section 59, sub-section (3) :

Provided that the Court may grant probate or letters of administration notwithstanding that the prescribed fee has not been paid, to the Administrator-General in his official capacity on his giving an undertaking to the satisfaction of the Court that the said fee will be paid within such time as may be fixed by the Court.

58. *Relief in cases of several grants.*—(1) Whenever a grant of probate or letters of administration has been made in respect of the whole of the property belonging to an estate and the full fee payable under this Act in respect of the application for such grant has been paid thereon, no fee shall be payable when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

(2) Whenever such grant has been made in respect of any property forming part of an estate, the amount of fee actually paid under this Act in respect thereof shall be deducted when a like grant is made in respect of the property belonging to the same estate identical with or including the property to which the former grant relates.

59. *Inquiry by the Collector.*—(1) The Collector to whom a copy of the application and of the valuation has been sent under section 55, sub-section (2), shall examine the same and may make or cause to be made by any officer subordinate to him such inquiry if any, as he thinks fit as to the correctness of the valuation or, where a part only of the property is situated in his district, of the valuation of that part, and may require the Collector of any other district in which any part of the property is situated to furnish him with the correct valuation thereof.

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(2) Any Collector required under sub-section (1) to furnish the correct valuation of any property shall comply with the requisition after making or causing to be made by any officer subordinate to him such inquiry, if any, as he thinks fit.

(3) If the Collector is of opinion that the applicant has under-estimated the value of the property of the deceased, he may, if he thinks fit, require the attendance of the applicant, either in person or by his agent, and take evidence and inquire into the matter in such manner as he may thinks fit, and if he is still of opinion that the value of the property has been under-estimated, may require the applicant to amend the valuation, and, if the application for probate or letters of administration is pending in Court to file a copy of the amended valuation in such Court.

(4) If, in any such case, the probate or letters of administration has or have been granted and the applicant amends the valuation to the satisfaction of the Collector and the Collector finds that a less fee has been paid than was payable according to the true value of the estate, he shall proceed under section 61, sub-section (4); but if a higher fee has been paid than was payable according to the true value of the estate, the excess fee shall be refunded to the applicant.

(5) If the applicant does not amend the valuation to the satisfaction of the Collector, the Collector may move the Court before which the application for probate or letters of administration was made to hold an inquiry into the true value of the property :

Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by section 317 of the Indian Succession Act, 1925 (Central Act XXXIX of 1925).

60. *Application to Court and powers of Court.*—(1) The Court shall, when moved by the Collector under section 59, sub-section (5), hold or cause to be held by any Court or officer subordinate to it an injuiry as to the true value at which the estate of the deceased should have been estimated. The Collector shall be deemed to be a party to the inquiry.

(2) For the purposes of any such inquiry, the Court, or the Subordinate Court or the officer authorized by the Court to hold the inquiry, may examine the applicant on oath either in person or by commission, and may take such further evidence as may be produced to prove the true value of the estate, and where the inquiry has been entrusted to a Subordinate Court or officer, such Court or officer shall return to the Court the evidence taken and report the result of the inquiry and such report and the evidence so taken shall be evidence in the proceedings.

(3) The Court on the completion of the inquiry or on receipt of the report referred to in sub-section (2), as the case may be, shall record a finding as to the true value at which the estate should have been estimated and such finding shall be final.

(4) The Court may make such order in accordance with the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908), as to the cost of the inquiry as it thinks fit.

61. *Provision for cases where too low a fee has been paid.*—(1) Where too low a fee has been paid on any probate or letters of administration in consequence of any mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator, acting under such probate or letters, applies to the Collector in the form set forth in Part II of Schedule III and pays within six months after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, what is wanting to make up the fee which ought to have been paid at first on such probate or letters, the Collector shall, if satisfied that a low fee was paid in the first instance in consequence of a mistake and without any intention of fraud or to delay the payment of the proper fee, cause the probate or letters to be duly stamped.

(2) If, in a case falling under sub-section (1), the executor or administrator does not, within the six months referred to in that sub-section, pay the deficit fee, he shall forfeit a sum equal to five times the deficit fee.

(3) If, on application being made under sub-section (1), the Collector is not satisfied that the application was made within six months of the discovery of the mistake or of further effects not included in the original valuation or that the payment of a low fee in the first instance was not due to a *bona fide* mistake, he shall cause the probate or letters to be duly stamped on payment of the deficit fee together with a penalty not exceeding five times such fee.

(4) If, after the grant of probate or letters of administration of an estate, it is found by the Collector as a result of proceedings under section 59 or section 60 or otherwise, that a less fee has been paid that was payable according to the true value of the estate, he shall cause the probate or letters to be properly stamped on payment of the deficit fee, and if he is satisfied that the original under-valuation was not *bona fide*, he shall levy in addition a penalty not exceeding five times the deficit fee.

(5) The Board of Revenue may remit the whole or any part of the amount forfeited under sub-section (2) or of any penalty under sub-section (3) or sub-section (4).

62. *Administrator to give proper security before letters stamped.*—In case of letters of administration on which too low a fee has been paid at first, the Collector shall not cause the same to be duly stamped in the manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had been then ascertained.

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63. *Relief when too high a fee has been paid.*—(1) If, at any time after the grant of the probate or letters of administration of an estate, it is discovered that a higher fee has been paid than was payable according to the true value of the estate, the executor or administrator, as the case may be, may apply for a refund to the Collector to whom a copy of the valuation of the estate was sent under section 55, sub-section (2). The application shall be accompanied by an amended valuation in the form set forth in Part II of Schedule III together with the probate or letters of administration upon which a refund is sought.

(2) If the Collector is satisfied that the amended valuation is correct, he shall—

(i) endorse a certificate on the stamped probate or letters of administration to the effect that so much of the fee represented by the stamp or stamps used has been refunded; and

(ii) refund the difference between the fee originally paid and that which should have been paid:

Provided that, no refund shall be granted under this section unless the application for refund is made within three years of the date of the grant of the probáte or letters of administration, or within such further period as the Collector may allow.

If, by reason of any legal proceedings, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available and in consequence thereof, the executor or administrator is prevented from claiming the return of such difference within the said period of three years, the Collector may allow such further time for making the claim as may appear to him to be reasonable under the circumstances.

If the Collector does not grant a refund, the executor or administrator, as the case may be, may apply to the Board of Revenue for an order of refund. An application for such refund should be accompanied by an amended valuation in the form set forth in Part II of Schedule III.

64. *Recovery of penalties, etc.*—Any excess fee found to be payable by an applicant for probate or letters of administration or by an executor or administrator, or any costs under section 60, sub-section (4), or any penalty or forfeiture payable by any such executor or administrator may, on the certificate of the Board of Revenue, be recovered from the executor or administrator as if it were an arrear of land revenue.

65. *Powers of Board of Revenue.*—The powers and duties of the Collector under this Chapter shall be subject to the control of the Board of Revenue.

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CHAPTER VII.

REFUND AND REMISSIONS.

66. (1) *Refund in cases of delay in presentation of plaint, etc.*—Where a plaint or memorandum of appeal is rejected on the ground of delay in its re-representation, or where the fee paid on a plaint or memorandum of appeal is deficient and the deficiency is not made good within the time allowed by law or granted by the Court, or the delay in payment of the deficit fee is not condoned and the plaint or memorandum of appeal is consequently rejected, the Court shall direct the refund to the plaintiff or the appellant, of the fee paid on the plaint or memorandum of appeal which has been rejected.

(2) Where a memorandum of appeal is rejected on the ground that it was not presented within the time allowed by the law of limitation, one-half of the fee shall be refunded.

67. *Refund in cases of remand.*—(1) Where a plaint or memorandum of appeal which has been rejected by the lower Court is ordered to be received, or where a suit is remanded in appeal for a fresh decision by the lower Court, the Court making the order or remanding the appeal may direct the rfund to the appellant of the full amount of fee paid on the memorandum of appeal; and, if the remand is on second appeal, also on the memorandum of appeal in the first appellate Court, and, if the remand is in Letters Patent Appeal, also on the memorandum of second appeal and memorandum of appeal in the first appellate Court.

(2) Where an appeal is remanded in Second Appeal or Letters Patent Appeal for a fresh decision by the lower appellate Court, the High Court remanding the appeal may direct the refund to the appellant of the full amount of fee paid on the memorandum of Second Appeal if the remand is in Second Appeal, and of the full amount of fee paid on the Memorandum of Second Appeal and the Memorandum of Letters Patent Appeal if the remand is in Letters Patent Appeal :

Provided that, no refund shall be ordered if the remand was caused by the fault of the party who would otherwise be entitled to a refund :

Provided further that, if the order of remand does not cover the whole of the subject-matter of the suit, the refund shall not extend to more than so much fee as would have been originally payable on that part of the subject-matter in respect whereof the suit has been remanded.

68. *Refund where Court reverses or modifies former decision on ground of mistake.*—Where an application for a review of judgment is admitted on the ground of some mistake or error apparent on the face of the record, and on the rehearing the Court reverses or modifies its former decision on that ground, it shall direct the

refund to the applicant of so much of the fee paid on the application as exceeds the fee payable on any other application to such Court under Article 11 (*g*) and (*u*) of Schedule II.

69. *Refund on settlement before hearing.*—Whenever any suit is dismissed as settled out of Court before any evidence has been recorded on the merits of the claim, half the amount of all fees paid in respect of the claim or claims in the suit shall be ordered by the ourt to be refunded to the parties by whom the same have been respectively paid.

Explanation.—The expression ' merits of the claim ' shall have the meaning assigned to it in section 12.

70. *Refund of fee paid by mistake or inadvertence.*—The fee paid by mistake or inadvertence shall be ordered to be refunded.

71. *Instruments of partition.*—Where the final decree in a partition suit has been engrossed on non-judicial stamps furnished by the parties, the Court shall order the refund to the parties of so much of the valued fee paid by them as is equal to the value of the non-judicial stamps furnished by them.

72. *Exemption of certain documents.*—Nothing contained in this Act shall render the following documents chargeable with any fee :—

(i) mukhtarnama, vakalatnama or other written authority to institute or defend a suit when executed by a member of any of the Armed Forces of the Union not in civil employment;

(ii) memorandum of appearance filed by Advocates or Pleaders when appearing for persons proceeded against in criminal cases;

(iii) plaints and other documents in suits filed in village courts;

(iv) plaints in suits before Collectors under Madras Regulation XII of 1816;

(v) application or petition to a Collector or other Officer making a settlement of land revenue, or to the Board of Revenue relating to matters connected with the assessment of land, or with the ascertainment of rights thereto or interest therein, if presented previous to the final confirmation of such settlement;

(vi) application relating to a supply for irrigation of water belonging to Government;

(vii) application for leave to extend cultivation or to relinquish land, when presented to an officer of land revenue by a person holding, under a direct engagement with Government, land of which revenue is settled but not permanently;

(viii) application for service of notice of relinquishment of land or of enhancement of rent;

(ix) written authority to an agent to distrain;

(x) first application (other than a petition containing a criminal charge of information) for the summons of a witness or

other person to attend either to give evidence or to produce a document or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court;

(xi) bail bonds in criminal cases other than bail bonds in village courts, recognizances to prosecute or give evidence and recognizances for personal appearance or otherwise;

(xii) petition, application, charge or information respecting any offence when presented, made or laid to or before a police officer, or to or before the heads of villages or the village police;

(xiii) petition by a prisoner or other person in duress or under restraint of any Court or its officer;

(xiv) complaint of a public servant as defined in the Indian Penal Code (Central Act XLV of 1860) or an officer of the State Railway;

(xv) application for permission to cut timber in Government forests or otherwise relating to such forests, not being applications from forest contractors for extending the period of their leases;

(xvi) application for the payment of money due by the Government to the applicant, other than an application for refund of lapsed deposit made six months after the date on which the amount lapsed to the Government;

(xvii) petition of appeal against any municipal tax;

(xviii) application for compensation under any law, for the time being in force relating to the acquisition of property .or public purposes;

(xix) petition under section 48 of the Indian Christian Marriage Act, 1872 (Central Act XV of 1872);

(xx) petition or appeal by a Government servant or a servant of the Court of Wards when presented to any superior officer or Government against orders of dismissal, reduction or suspension; copies of such orders filed with such appeals, and applications for obtaining such copies.

73. *Power to reduce or remit fees.*—The State Government may, by notification in the *Fort St. George Gazette*, reduce or remit, in the whole or in any part of the territory of this State, all or any of the fees chargeable under this Act, and may, in like manner, cancel or vary such notification.

CHAPTER VIII.

MISCELLANEOUS.

74. *Collection of fees by stamps.*—All fees chargeable under this Act shall be collected by stamps.

75. *Stamps to be impressed or adhesive.*—The stamps used to denote any fee chargeable under this Act shall be impressed or adhesive or partly impressed and partly adhesive, as the State Government may, by notification in the *Fort St. George Gazette*, from time to time, direct.

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76. *Amended document.*—Where any document which ought to bear a stamp under this Act is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

77. *Cancellation of stamp.*—No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled.

Such officer as the Court or the head of the office may, from time to time, appoint shall, on receiving any such document forthwith effect such cancellation by punching out the figure head so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

78. *Deduction to be made.*—Where allowance is made in this Act for damaged or spoiled stamps, or where fee already paid is directed to be refunded to any person by an order of Court, the Collector may, on the application of the person concerned, pay to him the amount of fee or where damaged or spoiled stamps are produced, he may, after satisfying himself about their genuineness, give in lieu thereof the same amount or value in stamps of the same or any other description, or if the applicant so desires, the same amount or value in money provided that in all cases where money is paid in cash, a deduction shall be made of one anna for each rupee or fraction thereof. No such deduction shall however be made where refund is claimed in respect of any fee paid in pursuance of an order of Court which has been varied or reversed in appeal.

79. *Penalty.*—Any person appointed to sell stamps, who disobeys any rule made under this Act, and any person, not so appointed, who sells or offers for sale any stamps, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

80. *Power of High Court to make rules.*—(1) The High Court may make rules to provide for or regulate all or any of the following matters, namely :—

(*a*) the fees payable for serving and executing processes issued by the High Court in its appellate jurisdiction and by the Civil and Criminal Courts subordinate thereto;

(*b*) the remuneration of persons employed by the courts mentioned in clause (*a*) in the service or execution of processes;

(*c*) the fixing by District and Sessions Judges and District Magistrates of the number of process-servers necessary to be employed for the service and execution of processes issued from their respective courts and the Courts subordinate thereto;

(*d*) the display in each Court of a table in the English and in the local language or languages showing the fees payable for the service and execution of processes.

(2) All rules made under sub-section (1) shall be subject to confirmation by the State Government and on such confirmation shall be published in the *Fort St. George Gazette* and shall thereupon have effect as if enacted in this Act.

81. *Power of Board of Revenue to make rules.*—(1) The Board of Revenue may, with the previous sanction of the State Government, make rules consistent with this Act to provide for or regulate all or any of the following matters, namely :—

(*a*) the fees chargeable for serving and executing processes issued by the Board of Revenue and by the Revenue courts;

(*b*) the remuneration of the persons necessary to be employed for the service and execution of such processes;

(*c*) the fixing by Collectors of the number of persons necessary to be employed for the service and execution of such processes;

(*d*) the guidance of Collectors in the exercise of their powers under Chapter VI;

(*e*) the supply of stamps to be used under this Act;

(*f*) the number of stamps to be used for denoting any fee chargeable under this Act;

(*g*) the keeping of accounts of all stamps used under this Act;

(*h*) the circumstances in which stamps may be held to be damaged or spoiled;

(*i*) the circumstances in which, the manner in which, and the authorities by which, allowance for used, damaged or spoiled stamps may be made;

(*j*) the regulation of the sale of stamps to be used under this Act, the persons by whom alone such stamps may be sold and the duties and remuneration of such persons :

Provided that in the case of stamps used in the High Court, such rules shall be made with the concurrence of the Chief Justice.

(2) All rules made under this section shall be published in the *Fort St. George Gazette* and on such publication, shall have effect as if enacted in this Act.

82. *Power of Government to make rules.*—(1) The State Government may, by notification in the *Fort St. George Gazette*, make rules to carry out generally the purposes of this Act.

(2) All notifications and rules made under this section shall, as soon as possible, after they are made, be placed on the table of the Legislative Assembly for one month, and shall be subject to such modification whether by way of repeal or amendment as the Legislative Assembly may make during the session in which they are so laid.

83. *Continuance in force of existing rules.*—Until rules are framed under sections 80, 81 and 82 and until notifications are issued under section 73, the rules and notifications now in force in respect of matters referred to in those sections, shall, in so far as they are not inconsistent with this Act, continue.

84. *Amendment of Central Act III of* 1873.—In the Madras Civil Courts Act, 1873 (Central Act III of 1873), section 14 shall be omitted.

85. *Repeal of Central Act IV of* 1877.—The Presidency Magistrates (Court Fees) Act, 1877 (Central Act IV of 1877) in so far as it applies to the State of Madras, is hereby repealed.

86. *Amendment of Central Act VII of* 1892.—In the Madras City Civil Court Act, 1892 (Central Act VII of 1892), sections 9 and 13 shall be omitted.

87. *Repeal and saving.*—(1) The Court Fees Act, 1870 (Central Act VII of 1870), in its application to the State of Madras and in relation to the fees and stamps other than fees and stamps relating to documents presented or to be presented before an officer serving under the Central Government and the Suits Valuation Act, 1887 (Central Act VII of 1887), in its application to the State of Madras are hereby repealed.

(2) All suits and proceedings instituted before the commencement of this Act and all proceedings by way of appeal, revision or otherwise arising therefrom whether instituted before or after such commencement shall, notwithstanding the repeal of the Court Fees Act, 1870 (Central Act VII of 1870) and the Suits Valuation Act, 1887 (Central Act VII of 1887), be governed by the provisions of the said Acts and the rules made thereunder.

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SCHEDULE I.

Ad valorem fees.

Article. (1)	*Particulars.* (2)	*Proper fee.* (3)
1	Plaint or written statement pleading a set off or counter-claim or memorandum of appeal presented to any Court—	
	When the amount or value of the subject-matter in dispute—	
	(i) does not exceed five rupees ..	Six annas.
	(ii) exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees ;	Six annas.
	(iii) exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees ;	Twelve annas.
2	(*a*) Petition under section 26 of the Provincial Insolvency Act, 1920, or application under section 95 of the Code of Civil Procedure, 1908.	An amount of one-half the scale of fee prescribed in article 1 on the amount or compensation claimed.
	(*b*) Appeal against order on a petition or application falling under clause (*a*).	On the scale prescribed in article 1 on the amount in dispute.
3	(*a*) Petition under section 53 or 54 of the Provincial Insolvency Act, 1920.	An amount of one-half the scale of fee prescribed in article 1 on the market value of the subject-matter subject to a maximum fee of rupees five hundred.
	(*b*) Appeal against order on a petition falling under clause (*a*) whether by the Official Receiver or by the unsuccessful party.	An amount of one-half the scale of fee prescribed in article 1 on the market value of the subject-matter subject to a maximum fee of rupees five hundred.
4	Memorandum of appeal against order in proceedings under the Indian Succession Act, 1925.	An amount of one-half the scale of fee prescribed in article 1 on the amount or value of the subject-matter.
5	Application for review of judgment ..	One-half of the fee payable on the plaint or memorandum of appeal comprising the relief sought in the application for review.
6	Probate of a will or letters of administration with or without will annexed—	
	When the amount or value of the estate in respect of which the grant of probate or letters is made exceeds one thousand rupees, but does not exceed five thousand rupees.	Two per centum on such amount or value.
	When such amount or value exceeds five thousand rupees.	Three per centum on such amount or value.

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SCHEDULE I—*cont.*

AD VALOREM FEES—*cont.*

Article. (1)	*Particulars.* (2)	*Proper fee.* (3)
7	Certificate under the Indian Succession Act, 1925—	
	Where the amount or value of the debt or security or the aggregate amount or value of the debts and securities specified in the certificate extends up to rupees five thousand.	Two per centum on such amount or value.
	Where such amount or value exceeds five thousand rupees.	Three per centum on such amount or value.

NOTE.—(1) Where a certificate is extended under section 376 of the Indian Succession Act, 1925, fee shall be computed on the amount for which a certificate is sought to be extended and the amount for which a certificate or certificates has or have already been issued, credit being given for the fee already paid.

(2) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for so far as such amount can be ascertained.

(3) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of the security, or for both purposes, the value of the security is its market value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.

SCHEDULE II.

Article. (1)	*Particulars.* (2)	*Proper fee.* (3)
1	(i) Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866.	Ten rupees.
	(ii) Petition, plaint or memorandum of appeal when presented to a Court under . . . the Dissolution of Muslim Marriage Act, 1939.	Ten rupees.
	(iii) Petition under the Indian Divorce Act, 1869, excluding petitions under section 44 of that Act, and every memorandum of appeal under section 55 of that Act.	Thirty rupees.
	(iv) Plaint or memorandum of appeal under the Parsi Marriage and Divorce Act, 1936, or a counter-claim made under section 37 of that Act.	Thirty rupees.
	(v) Plaint or memorandum of appeal in a suit under the Indian Colonial Divorce Jurisdiction Act, 1926.	Fifty rupees.
	If in a suit falling under any of these clauses, there is a specific claim for damages, separate fee at the rates prescribed in Article 1 of Schedule I shall be charged on the amount of damages claimed.	
2	Undertaking under section 49 of the Indian Divorce Act, 1869.	One rupee.

SCHEDULE II—*cont.*

Article.	*Particulars.*	*Proper fee.*
(1)	(2)	(3)
3	Memorandum of appeal from an order inclusive of an order determining any question under section 47 or section 144 of the Code of Civil Procedure, 1908, and not otherwise provided for when presented—	
	(i) to any Court other than the High Court or to any Executive Officer other than the Board of Revenue or Chief Executive Authority.	One rupee.
	(ii) to the Board of Revenue or Chief Executive Authority.	Two rupees.
	(iii) to the High Court—	
	(A) From an order other than an order under the Madras Agriculturists' Relief Act, 1938—	
	(1) Where the order was passed by a subordinate Court or other authority—	
	(*a*) If the order relates to a suit or proceeding, the value of which exceeds one thousand rupees.	Ten rupees.
	(*b*) In any other case ..	Five rupees.
	(2) Where the appeal is under clause 15 of the Letters Patent—	
	(*a*) From an order passed in exercise of appellate jurisdiction.	Ten rupees.
	(*b*) From an order passed in exercise of original jurisdiction, which would be appealable under the Code of Civil Procedure, 1908, had it been passed by a Subordinate Court.	Ten rupees.
	(*c*) In any other case ..	One hundred rupees.
	(3) Where the appeal is under section 45-B of the Banking Companies Act, 1949.	One hundred rupees.
	(4) Where the appeal is under section 411-A of the Code of Criminal Procedure, 1898.	Five rupees.
	(B) From an order under the Madras Agriculturists' Relief Act, 1938.	Two rupees.
	(iv) to the Government in pursuance of a statutory right to appeal for which no court-fee is leviable under any other enactment.	Five rupees.

SCHEDULE II—*cont.*

Article. (1)	*Particulars.* (2)	*Proper fee.* (3)
4	Memorandum of appeal under section 39 of the Arbitration Act, 1940—	
	(i) Where the appeal is from an order of a District Munsif's Court or an order of a superior Court in a case where the value for jurisdiction does not exceed Rs. 5,000 ;	Fifteen rupees.
	(ii) in any other case	One hundred rupees.
5	Copy or translation of a judgment or order not being or having the force of a decree—	
	When such judgment or order is passed by any Civil Court other than the High Court or by the Presiding Officer of any Revenue Court or office or by any other Court or judicial or executive authority—	
	(*a*) if the amount or value of the subject-matter is fifty or less than fifty rupees ;	Eight annas.
	(*b*) if such amount or value exceeds fifty rupees ;	One rupee.
	When such judgment or order is passed by the High Court.	Two rupees.
6	Copy or translation of a judgment or order of a Criminal Court.	Eight annas.
7	Copy of a decree or order having the force of a decree—	
	When such decree or order is made by any Court other than the High Court—	
	(*a*) if the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees ;	Twelve annas.
	(*b*) if such amount or value exceeds fifty rupees ;	One rupee and eight annas.
	When such decree or order is made by the High Court.	Five rupees.
8	Copy of any document liable to stamp duty under the Indian Stamp Act, 1899, when left by any party to a suit or proceeding in place of the original withdrawn—	
	(*a*) When the stamp duty chargeable on the original does not exceed 8 annas ;	The amount of the duty chargeable on the orginal.
	(*b*) in any other case	Twelve annas.
9	Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act or copy of any account, statement, report, or the like taken out of any Court or office of any public officer—	
	For every document	Twelve annas.

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SCHEDULE II—*cont.*

Article. (1)	*Particulars.* (2)	*Proper fee.* (3)
10	(*a*) Application or petition presented to any officer of land revenue by any person holding temporarily settled land under direct engagement with Government and when the subject-matter of the application or petition relates exclusively to such engagement.	Four annas.
	(*b*) Application or petition presented to any officer of land revenue relating to the grant of land on darkhast.	Four annas.
	(*c*) Application to a Collector for lease of land for agricultural or non-agricultural purposes.	Twelve annas.
	(*d*) Application or petition presented to any Executive Officer under any Act for the time being in force for the conservancy or improvement of any place if the application or petition relates solely to such conservancy or improvement.	Four annas.
	(*e*) Application or petition presented to any board or Executive Officer for a copy or translation of any order passed by such board or officer or of any other document on record in such office.	Four annas.
	(*f*) Application to a Forest Officer by a forest contractor for extension of the period of lease—	
	(i) if the value of the subject-matter of the lease is Rs. 5,000 or less ;	Five rupees.
	(ii) if such value exceeds Rs. 5,000, for every Rs. 1,000 or part thereof in excess of Rs. 5,000.	One rupee.
	(*g*) Application for attestation of private documents intended to be used outside India.	One rupee.
	(*h*) Application for lapsed deposit presented after six months after the date on which the amount lapsed to the Government—	
	(i) when the amount or deposit does not exceed Rs. 50 ;	Eight annas.
	(ii) when the amount or deposit exceeds Rs. 50 but does not exceed Rs. 1,000 ;	One rupee.
	(iii) when it exceeds Rs. 1,000 ..	Two rupees.
	(*i*) Application or petition presented to the Government and not otherwise provided for—	
	(i) which involves the exercise or non-exercise of power conferred by law or rule having the force of law ;	Two rupees.
	(ii) in other cases	Eight annas.

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SCHEDULE II—*cont.*

Article. (1)	*Particulars.* (2)	*Proper fees.* (3)
10—*cont.*	(*j*) Application or petition presented to the Board of Revenue or Chief Executive Authority and not otherwise provided for—	
	(i) which involves the exercise or non-exercise of power conferred by law or rule having the force of law ;	Two rupees.
	(ii) in other cases	One rupee and eight annas.
	(*k*) Application or petition not falling under clause (*i*) or (*j*) and presented to a public officer or in a public office and not otherwise provided for—	
	(i) which involves the exercise or non-exercise of power conferred by law or rule having the force of law ;	One rupee.
	(ii) in other cases	Four annas.
11	(*a*) Application or petition presented to any Court for a copy or translation of any judgment, decree or any proceeding of or order passed by such Court or of any other document on record in such Court.	Four annas.
	(*b*) Application or petition presented to any Civil Court other than a Principal Civil Court of Original Jurisdiction or to any Court of Small Causes constituted under the Provincial Small Cause Courts Act, 1887, or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than Rs. 50.	Four annas.
	(c) Application to any Court that records may be called from another Court, when the Court grants the application and is of opinion that the transmission of such records involves the use of the post.	Twelve annas in addition to the fee leviable on the application.
	(*d*) Application for permission to deposit revenue or rent either in the office of the Collector or in the Court.	Twelve annas.
	(*e*) Application or petition presented to a Court for determination of the amount of compensation to be paid by a landlord to his tenant.	One rupee.
	(*f*) A written complaint or charge of any offence other than an offence for which a Police officer may, under the Code of Criminal Procedure, arrest without warrant and presented to any Criminal Court and an oral complaint of any such offence reduced to writing under the Code of Criminal Procedure, 1898.	One rupee.
	(*g*) Application or petition presented to any Court, or to any Magistrate in his executive capacity and not otherwise provided for in this Act.	Twelve annas.

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SCHEDULE II—*cont.*

Article.	*Particulars.*	*Proper fee.*
(1)	(2)	(3)
11—*cont.*	(*h*) Application for arrest or attachment before judgment or for temporary injunction—	
	(i) when presented to a Civil Court or Revenue Court other than the High Court in relation to any suit or proceeding—	
	(1) if the value of the subject-matter of which is less than Rs. 50.	One rupee.
	(2) if the value is Rs. 50 and above.	Two rupees and eight annas.
	(ii) when presented to the High Court.	Five rupees.
	(*i*) Application or petition under section 47 and Order XXI, rules 58 and 90, of the Code of Civil Procedure, 1908—	
	(i) when filed in a Revenue Court or a District Munsif's Court.	One rupee.
	(ii) when filed in the City Civil Court, Madras, a Sub-Court or a District Court.	Two rupees and eight annas.
	(iii) when filed in the High Court.	Five rupees.
	(*j*) Application or petition under sections 34, 72, 73 and 74 of the Indian Trusts Act, 1882.	Five rupees.
	(*k*) (i) Application for probate or letters of administration to have effect throughout India.	Twenty-five rupees.
	(ii) Application for probate or letters of administration not falling under clause (i)—	
	(1) if the value of the estate does not exceed Rs. 1,000.	Twelve annas.
	(2) if the value exceeds Rs. 1,000. Provided that if a caveat is entered and the application is registered as a suit, one-half the scale of fee prescribed in Article 1 of Schedule I on the market value of the estate less the fee already paid on the application shall be levied.	Five rupees.
	(*l*) Original petitions not otherwise provided for when filed in—	
	(i) a District Munsif's Court—	
	(1) under the Madras Village Courts Act, 1888 (Madras Act I of 1889).	One rupee.
	(2) in other cases	Five rupees.
	(ii) the City Civil Court, Madras, a Sub-Court or a District Court.	Ten rupees.
	(iii) the High Court	Twenty rupees.

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SCHEDULE II—*cont.*

Article. (1)	*Particulars.* (2)	*Proper fee.* (3)
11—*cont.*	(*m*) Application to set aside an award under the Arbitration Act, 1940—	
	(i) when presented to a District Munsif's Court.	Twenty-five rupees.
	(ii) when presented to the City Civil Court, Madras, a Sub-Court, a District Court or the High Court—	
	(1) if the value of the subject-matter of the award does not exceed Rs. 5,000.	Twenty-five rupees.
	(2) if such value exceeds Rs. 5,000 but does not exceed Rs. 10,000.	One hundred rupees.
	(3) if such value exceeds Rs. 10,000.	Two hundred and fifty rupees.
	(*n*) Application under section 14 or section 20 of the Arbitration Act, 1940, for a direction for filing an award or for an order for filing an agreement and application for enforcing foreign awards—	
	(i) when presented to a District Munsif's Court.	Fifteen rupees.
	(ii) when presented to the City Civil Court, Madras, a Sub-Court, a District Court or the High Court—	
	(1) if the value of the subject-matter of the award does not exceed Rs. 5,000.	Fifteen rupees.
	(2) if such value exceeds Rs. 5,000 but does not exceed Rs. 10,000.	One hundred rupees.
	(3) if such value exceeds Rs. 10,000.	Two hundred and fifty rupees.
	(*o*) Petition to the High Court for the admission of an Advocate, Attorney or Vakil.	Twenty rupees.
	(*p*) Application presented to the High Court under section 24 of the Press (Objectionable Matter) Act, 1951.	Fifty rupees.
	(*q*) Revision petition presented to the High Court under section 115 of the Code of Civil Procedure 1908, or under section 25 of the Provincial Small Cause Courts Act, 1887, or under the provisions of any other Act, arising out of a suit or proceeding—	
	(i) if the value of the suit or proceeding to which the order sought to be revised relates does not exceed Rs. 1,000.	Five rupees.
	(ii) if such value exceeds Rs. 1,000.	Ten rupees.
	(*r*) Petition under sections 153, 166 and 221 of the Indian Companies Act, 1913, in connection with the winding up of a company.	One hundred rupees.

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SCHEDULE II—*cont.*

Article. (1)	*Particulars.* (2)	*Proper fee.* (3)
11—*cont.*	(*s*) Petition to the High Court under Article 226 of the Constitution for a writ other than the writ of *Harbeas Corpus* or a petition under Article 227 of the Constitution.	Twenty-five rupees.
	(*t*) Application under section 45 of the Specific Relief Act, 1877.	One hundred rupees.
	(*u*) Application or petition presented to the High Court/and/not otherwsie specifically provided for.	Two rupees.
	(*v*) Election petition questioning the election of a person in respect of—	
	(i) the office of member of a panchayat ;	Twenty-five rupees.
	(ii) the office of President of a panchayat ;	Fifty rupees.
	(iii) the office of member or Alderman of the Council of the Corporation of Madras or of member of a Municipal Council or a District Board ;	Fifty rupees.
	(iv) the office of Mayor or Deputy Mayor of the Corporation of Madras or of Chairman of a Municipality or President of a District Board.	Two hundred rupees.
12	Application for leave to sue as a pauper.	Twelve annas.
13	Application for leave to appeal as a pauper—	
	(i) When presented to a District Court or a Sub-Court.	One rupee.
	(ii) when presented to the High Court.	Two rupees.
14	(i) Bail bond or other instrument of obligation when filed in village courts.	Four annas.
	(ii) Bail bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, and not otherwise provided for in this Act.	Twelve annas.
15	Every copy of power-of-attonrey when filed in any suit or proceeding.	Twelve annas.
16	Mukhtarnama, Vakalatnama or any paper signed by an advocate signifying or intimating that he is retained for a party—	
	When presented—	
	(i) to any Court other than the High Court or to any Collector or Magistrate or other executive officer.	One rupee and eight annas.
	(ii) to the Board of Revenue or a Chief Executive Authority.	Two rupees.
	(iii) to the High Court ..	Three rupees.
	(iv) to the Government	Three rupees.

SCHEDULE II—*cont.*

Article. (1)	*Particulars.* (2)	*Proper fee.* (3)
17	Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure, 1908—	
	(i) When presented to a District Munsif's Court or when presented to the City Civil Court or Sub-Court of Ootacamund or of Cochin, in a case where the value of the subject-matter does not exceed Rs. 5,000.	Fifteen rupees.
	(ii) In any other case	One hundred rupees.
18	Caveat	Ten rupees.

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SCHEDULE III.

PART I.

(*See* section 55.)

Form of Valuation (to be used with such modifications, if any, as may be necessary) of Estate.

IN THE COURT OF

RE : PROBATE OF THE WILL OF (OR ADMINISTRATION OF THE ESTATE OF), DECEASED.

1. I (A.B.) solemnly affirm/make oath and say that I am the executor (or one of the executors or one of the next of kin) of deceased, and that I have truly set forth in Annexure A to this Form of valuation all the estate of which the abovenamed deceased died possessed or to which he was entitled at the time of his death, and which has come, or is likely to come, to my hands.

2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct.

3. I further declare that the said estate exclusive only of the last-mentioned items, was on the date of the death of the said deceased / *is ——— under the value of

4. I (A.B.) further declare that what is stated in this Form of Valuation is true to the best of my information and belief.

(Signed) ——————— A.B.

* This form to be used where the application is made after one year from the date of the death.

SCHEDULE III—*cont.*

Part I—*cont.*

ANNEXURE A.

Valuation of the movable and immovable property of deceased.

	RS. A. P.
Cash in hand and at the bank, household goods, wearing apparel, books, plate, jewels, etc.	
(*State estimated value according to best of Executor's or Administrator's belief.*)	
Property in Government securities transferable at the Public Debt Office.	
(*State description and value on the date of the death of the deceased or on the date of the application, as the case may be*).	
Immovable property, consisting of	
(*State description and market value on the date of the death of the deceased or on the date of the application, as the case may be*).	
Leasehold property	
(*If the deceased held any leases for years determinable, state the period of the lease and the estimated amount of rent inserting separately arrears due on the date of death or on the date of the application, as the case may be.*)	
Property in public companies in	
(*State the particulars and the value calculated at the price on the date of the death or on the date of the application, as the case may be.*)	
Policies of insurance upon life, money out on mortgages and other securities, such as bonds, bills, notes and other securities for money.	
(*State the amount of the whole on the date of the death or on the date of the application, as the case may be.*)	
Debts	
(*Other than bad debts*)	
Stock in trade	
(*State the estimated value, if any.*)	
Other property not comprised under the foregoing heads ..	
(*State the estimated value, if any.*)	
Total ..	
Deduct items shown in Annexure B in the manner provided in sub-section (2) of section 58.	
Net value of the Estate	

ANNEXURE B.

Schedule of debts, etc.

	RS. A. P.
Amount of debts due and owing from the deceased, legally payable out of the estate.	
Amount of expenses connected with funeral rites and ceremonies.	
Amount of mortgage incumbrances	
Property held in trust not beneficially or with general power to confer a beneficial interest.	
Other property not subject to duty	
Total ..	

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SCHEDULE III—*cont.*

Part II.

AMENDED FORM OF VALUATION OF ESTATE.

(*See* sections 61 and 63.)

IN THE COURT OF

RE : PROBATE OF THE WILL OF (OR ADMINISTRATION OF THE ESTATE OF), DECEASED.

1. I (A.B.) am the executor (or one of the executors *or* one of the next-of-kin, *as the case may be*) of

2. Probate was (*or* letters of administration were) granted to me on

3. It has now been discovered that the net value of the estate on which Court fee was paid was not correctly ascertained.

4. I have now truly set forth in Annexure A to this amended Form of Valuation all the estate of the deceased at the date of $\frac{\text{his death}}{\text{the application for probate (or letters of administration)}}$ which has come or is likely to come to my hands.

5. I further have now truly set forth in Annexure B all the items which I am by law allowed to deduct.

6. I further declare that the said estate, exclusive only of the last-mentioned items, at the date of $\frac{\text{the death of the deceased was}}{\text{this application is}}$ under the value of

7. I (A.B.) further declare that what is stated in this amended Form of Valuation is true to the best of my information and belief.

(Signed) A.B.————

ANNEXURE A.

Amended valuation of the estate of deceased.

Valuation on which Court-fee was paid.	*Increase.*	*Decrease.*	*Valuation as now amended.*

Total ..

Deduct items shown in Annexure B in the manner provided in sub-section (2) of section 56.

Amended net value of estate

ANNEXURE B.

Amended schedule of debts, etc.

Valuation on which Court-fee was paid.	*Increase.*	*Decrease.*	*Valuation as now amended.*

Total ..

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